

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH (ACCSH)

Thursday, November 29, 2012

Frances Perkins Building
200 Constitution Avenue, N.W.
Washington, D.C.

Diversified Reporting Services, Inc.

(202) 467-9200

COMMITTEE MEMBERS PRESENT:

EMPLOYEE REPRESENTATIVES:

Erich J. (Pete) Stafford, Chairman
Building and Construction Trades Department, AFL-CIO

Roger Erickson
International Brotherhood of Boilermakers, Iron
Ship Builders, Blacksmiths, Forgers & Helpers
AFL-CIO, MOST Administrator

Walter A. Jones
Laborers' Health and Safety Fund of North America

EMPLOYER REPRESENTATIVES:

Kristi Barber
Glenn C. Barber & Associates

Kevin R. Cannon
Associated General Contractors of America

Thomas Marrero
Zenith Systems, LLC

William E. Hering
SM Electric Company, Inc.

Donald L. Pratt
Construction Education and Consultation
Services of Michigan

STATE REPRESENTATIVES:

Charles Stribling
Kentucky Labor Cabinet, Department of Workplace
Standards

Steven D. Hawkins (telephonic)
Tennessee Occupational Safety and Health
Administration

COMMITTEE MEMBERS PRESENT: [continued]

PUBLIC REPRESENTATIVES:

Letitia K. Davis
Massachusetts Department of Public Health

Jeremy Bethancourt
Arizona Construction Training Alliance

FEDERAL REPRESENTATIVES:

Matt Gillen
Deputy Director, Office of Construction Safety
& Health, CDC/NIOSH, Office of the Director

DESIGNATED FEDERAL OFFICIALS:

Jim Maddux
OSHA Directorate of Construction

Ben Bare
Deputy Director, DOL-OSHA Directorate of Construction

COMMITTEE CONTACTS:

Damon S. Bonneau
OSHA, Directorate of Construction

COMMITTEE COUNSEL:

Sarah Shortall, DOL, Office of the Solicitor

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1 I would like to remind the ACCSH members and
2 for anyone in the audience who engages in the
3 conversations, please state your name and organization
4 for the benefit of our recorder.

5 With that, Ben?

6 MR. BARE: Ben Bare. Deputy Director,
7 Directorate of Construction, DOL-OSHA.

8 MR. PRATT: Don Pratt, Construction Education
9 and Consultation Services of Michigan. I am here
10 representing employers.

11 MS. DAVIS: I'm Tish Davis. Director,
12 Occupational Health Surveillance Program, Massachusetts
13 Department of Public Health, and I'm a public
14 representative.

15 MR. BETHANCOURT: I'm Jeremy Bethancourt. I'm
16 with the Arizona Construction Training Alliance. I am
17 a public representative.

18 MR. STRIBLING: Good morning. Chuck
19 Stribling, Kentucky Labor Cabinet, Department of
20 Workplace Standards. I represent state government.

21 MR. MARRERO: Tom Marrero, employee
22 representative, Corporate Safety Manager, Zenith

1 Systems LLC.

2 MR. GILLEN: Good morning. Matt Gillen,
3 Deputy Director from NIOSH Office of Construction
4 Safety and Health.

5 MR. JONES: Walter Jones, Assistant Director
6 of Occupational Safety and Health with the Laborers'
7 Health and Safety Fund, employee rep.

8 MR. ERICKSON: Roger Erickson, employee
9 representative, Boilermakers AFL-CIO and MOST Program.

10 MR. CANNON: Kevin Cannon, employer rep.
11 Associated General Contractors of America.

12 MS. BARBER: Kristi Barber, employee rep,
13 Glenn C. Barber & Associates.

14 MR. HERING: Bill Hering, employer rep, SM
15 Electric, a large utility contractor in Canada and the
16 United States.

17 MS. SHORTALL: Good morning. I'm Sarah
18 Shortall, ACCSH counsel.

19 (Introduction of audience participants.)

20 CHAIRMAN STAFFORD: Ben, do you have any
21 comments?

22 MR. BARE: Welcome, everybody. We had a

1 really good discussion and information from the work
2 groups. I congratulate all of you and keep up the
3 enthusiasm. It was really great to see the
4 participation. Looking forward to the discussion today
5 and tomorrow.

6 The Assistant Secretary will be here at 2:00,
7 looking forward to those comments. If you have any
8 questions for him, feel free to participate with him
9 and have an exchange with him.

10 The last thing is emergency evacuation, always
11 important, in case we get an alarm or something
12 catastrophic happens. Damon will kind of explain the
13 emergency evacuation procedures for the building.

14 MR. BONNEAU: Good morning. We hope it never
15 happens, but if it does, we want to be prepared, like
16 Ben said.

17 In the event the alarms go off, we have a very
18 sophisticated PA system in here, and if they start
19 making announcements that we need to leave the
20 building, you need to attach yourself to one of the DOC
21 members, which is Ben, myself, Jim, Paul, or if you
22 happen to be outside of here, in the rest room or some

1 place else, report to the Construction Office, which is
2 here on the third floor, Room 3468.

3 That way we will hang around and wait for
4 anybody that is not in here, and we will take you to
5 the rally point. The rally point is outside this
6 building, around the corner quite a ways. We don't
7 want to try to tell you how to get there and get lost.
8 Just follow us. We will get you there safely.

9 Make sure you sign in. There is a sign-in
10 roster going around. Please make sure you sign in.
11 That's going to be the only way that we will be able to
12 verify that we have everybody assembled and in the
13 right place.

14 CHAIRMAN STAFFORD: Thank you, Damon. Sarah?

15 MS. SHORTALL: A couple of public
16 participation notes. First, all of the exhibits,
17 reports, the transcript from today's meeting, are going
18 to be put in the public record for ACCSH.

19 The docket number is OSHA-2012-0011. If you
20 just type in "ACCSH," all the material will come up.

21 You will notice the microphone for
22 teleconferencing. We will be having at least one

1 member who will be participating in that way. I also
2 want to let people know, if they contact Damon Bonneau,
3 because they can't be here physically but would like to
4 listen in, he can give you the passcodes so you can
5 participate and be with us at this meeting by
6 teleconference.

7 CHAIRMAN STAFFORD: Thank you, Sarah. Again,
8 welcome, everyone. Thank you. I'd like to start by
9 ditto'ing what Ben said earlier. We have been meeting
10 for the last couple of days and I would like to thank
11 all of our ACCSH members and the co-leads and a lot of
12 you who have been with us for the last couple of days.

13 From my perspective, we have had very
14 informative and some productive work group meetings.
15 We will be hearing from several of our work groups
16 today and a few more tomorrow as we wrap up.

17 First, as usual, we are going to have a report
18 from the Directorate of Construction, to give us a
19 regulatory update on everything that is happening at
20 DOC.

21 With that, Jim, welcome, and thank you for
22 being here.

1 DIRECTORATE OF CONSTRUCTION REGULATORY UPDATE

2 MR. MADDUX: Thank you. To add on to that, I
3 think the work group meetings were all great. For the
4 last couple of days, we got a lot of great information.

5 I think we had some really good robust discussions
6 about a lot of the issues that are facing the Agency.
7 I hope you guys learned as much as I did. I thought it
8 was pretty exciting.

9 I also wanted to make sure to welcome our four
10 new members to the committee. Jeremy, Don, Kristi, and
11 Roger were just recently appointed. This is their
12 first meeting. Welcome. If there is anything we can
13 do to help you out or answer any questions, please just
14 ask me or anybody on the DOC staff. We will be happy
15 to try to give some resources for you.

16 I'd like to start out by kind of going through
17 some of the recommendations from the last few meetings,
18 kind of giving a little bit of a status on where things
19 are at.

20 At the last meeting, we had a recommendation
21 to develop model guidelines to help Federal Government
22 assist with their contracting and pre-assessment of

1 construction work. There was a discussion of that in
2 one of the work groups.

3 We now have a draft, sort of a check list, and
4 we had some folks from the Department who came to help
5 with that. I think that was very productive, and we
6 are moving forward with that.

7 There was a recommendation that we develop
8 construction sanitation guidelines for separate
9 facilities for men and women. We have a fact sheet, a
10 draft fact sheet and a draft web page that the group is
11 reviewing. I feel that is moving forward pretty well.

12 A recommendation for injury and illness
13 prevention programs. There were three separate parts
14 of the recommendation, and all that is moving forward.

15 I think the most important one is in the
16 construction sector, that programs be employer specific
17 and site-wide. Things need to be coordinated on a
18 construction site when you have an injury and illness
19 prevention program.

20 Recommendations on posting some of the
21 Alliance Roundtable fact sheets on prevention through
22 design. On our web page, we are creating a link to

1 them. We have completed them. There is still an
2 outstanding issue of whether or not they should be
3 turned into actually OSHA branded products. We are
4 continuing to take a look at that.

5 A lot of our publication resources, of course,
6 are busy with the falls prevention campaign and crane
7 issues, but it's on our list to do.

8 There is a recommendation on a direct final
9 rule for head protection to update the consensus
10 standards. That rule has been published since that
11 meeting and is now completed. That is a completely
12 done activity.

13 Now we have the most recent consensus
14 standards for head protection reference in our
15 construction standards and our general industry
16 standards.

17 There was a couple of recommendations on a
18 backing operations' web page, some are specific on
19 content. We have done that. That was posted earlier
20 this week. That is a completed item.

21 Recommendation on including profit fit of PPE
22 in the SIP IV rulemaking. We are planning to do that.

1 We included the chimney stack variance in the
2 SIP IV rulemaking. We are continuing to look at that
3 and see if it is a reasonable fit for that project.

4 A guidance document for mast climbing. We
5 have not started on that yet.

6 That is some of the recommendations from the
7 last several meetings. I just want to make sure people
8 know that we take these recommendations seriously and
9 we are moving on them with the resources and other
10 priorities that we have.

11 In terms of just an update, we now have
12 fatality data for 2011, just published by the Bureau of
13 Labor Statistics about a month ago, I think. The
14 preliminary data showed we have a small reduction in
15 fatalities in the construction sector.

16 This data is preliminary. The final data
17 won't come out until some time next year. The data are
18 likely to go up a little bit. I think it would be
19 pretty surprising if it got back to the 2010 levels.

20 I think this is very good news. Hopefully, we
21 can continue to keep this pressure going on these
22 rates, as the economy continues to slowly recover, and

1 we have an increase in construction work.

2 Falls dominate, 250, almost a third of the
3 fatal injuries in construction are due to falls. We
4 also have quite a number of "struck by" cases and
5 electrocutions.

6 Let's get into a little bit of our rulemaking
7 work. We have the committee chatting quite a bit about
8 the SIP IV process, and we have had several
9 recommendations from the committee for different things
10 we could include in SIP IV.

11 The purpose, of course, is to remove or revise
12 duplicative, unnecessary, and inconsistent safety and
13 health standards, without reducing worker safety or
14 health or imposing additional economic burdens on
15 employers.

16 These rulemaking's include a large number of
17 relatively small fixes to the standards that probably
18 would never be big enough to get on the regulatory
19 agenda by themselves.

20 We are working really hard on this. I think
21 right now we have a total of 80 potential candidates
22 that we have assembled.

1 We will be ultimately publishing an RFI. That
2 is just approaching its last stages of clearance. I
3 think that RFI could publish maybe in the next two or
4 three weeks.

5 We also have several final rules we are
6 working on. Three of these are follow up rulemaking
7 activities from the crane standard. We will be talking
8 quite a lot about the crane standard today.

9 One of them has to do with the application of
10 the cranes and derricks standard, digging and
11 underground construction and demolition. We issued a
12 direct final rule on this a couple of months ago, took
13 comments.

14 We wound up with really no comment on the
15 underground construction. We are going to move forward
16 with a Federal Register Notice that will announce that
17 is completed and going into effect.

18 We had one comment on demolition that
19 discussed potential ambiguities in the regulatory text
20 that we used. What we are planning to do there is to
21 re-open the record for 30 days to get additional
22 comments on that ambiguous language, and see if we can

1 actually make it more crystal clear.

2 Ambiguities in regulatory language are very
3 rarely a good thing. It should be a relatively easy
4 fix. That could publish also probably a little bit
5 after the SIP IV Request For Information, but certainly
6 within the next five or six weeks.

7 Cranes and derricks. This is a rulemaking to
8 resolve a lawsuit that we had with the Edison Electric
9 Institute. This has to do with digger derricks are
10 used to set up poles, and sometimes they are used to
11 set transformers and that sort of thing.

12 We have issued a direct final rule for this.
13 I think it was about three weeks ago. The comment
14 period is still open. We are taking comment on this
15 exemption, and that is moving forward very nicely.

16 We also have a number of corrections that we
17 want to make to the cranes and derricks standard.
18 There were things that were accidentally left out of the
19 standard that are discussed in the preamble. There is
20 an error in one of the hand signal charts that we would
21 to get repaired.

22 That is just doing some clean up on that.

1 The last one and certainly the most important
2 is the final rule for confined spaces. We have been
3 getting a lot of good work done on that. It is coming
4 together nicely. We are now trying to put the last
5 touches on one last final session. That is approaching
6 getting into the clearance process. That will have a
7 full OMB review. I'm sure that won't be published
8 until some time next year.

9 Backing operations. We have a backing
10 operations work group, Meghan and Paul briefed the work
11 group on the good work that is going on there. Dr.
12 Teizer, I think, had a great presentation of some of
13 the new technologies that are available to try to help
14 protect workers from back over's.

15 There are a tremendous number of fatalities.
16 I think last year it was 78 or 79 workers who were
17 fatally injured by being backed over by a vehicle.

18 There are a lot of things that can be done to
19 prevent these horrible fatalities.

20 This is one where Paul and Meghan have been
21 doing some leg work, getting out and doing some site
22 visits. We have had some very good contact with

1 several construction companies that have shown a
2 willingness to share some data and their experience
3 with trying to prevent back over injuries.

4 One, for example, has done some very good
5 experimenting with mounting cameras underneath the dump
6 trucks. This has been one of the really big concerns,
7 if you try to put back up cameras on construction
8 equipment, it's a very rough environment, will the
9 cameras be able to take that rough environment and
10 survive and do the job they need to do.

11 This particular company is having some success
12 with that. They have actually created it turns out
13 with the experimentation they have done, the best place
14 to put the camera, directly under the dumper.

15 You get it underneath the vehicle where the
16 bed is actually protecting the camera, and then they
17 created a welded steel box to mount the camera in, and
18 have a screen inside the cab so the driver can see to
19 the rear. They are having some success with that.

20 I think we have some really good work going on
21 here. The next step in this project, of course, will
22 be to continue to try to get out and do site visits and

1 collect data, but we also are going to hold two public
2 stakeholder meetings after the first of the year.

3 These will probably be announced in the next
4 week or two formally through a Federal Register Notice
5 and a press release and so forth.

6 We will be having one meeting here in
7 Washington, D.C. in January, and then a second meeting
8 in the Dallas/Ft. Worth area in Texas in February.

9 People that are interested in this back over
10 issue or have data/information to contribute, this will
11 provide a really, really nice opportunity to continue
12 to keep the conversation going on back over operations,
13 try to see if this is worth getting into rulemaking and
14 what a rule might look like, and how it would really
15 work.

16 In the same RFI where we announced the back
17 over project, we also announced and asked for comment
18 on reinforcing and post tension steel construction.

19 Of course, rebar is in a tremendous amount of
20 the concrete that we use on construction jobs, and
21 concrete is one of the materials of choice for
22 construction.

1 This is a very, very common problem. It is
2 really everywhere in construction work sites.

3 We do have standards that set some
4 requirements for dealing with rebar and post tension,
5 but we have been petitioned by the Iron Workers Union
6 to improve those rules and try to do some additional
7 work.

8 We received about 80 comments in response to
9 the RFI. There were a large number of them that were
10 sort of a form letter type approach. There were really
11 only 15 unique comments. They were from a nice variety
12 of stakeholders, people in both large and small
13 companies, insurance, people who actually were
14 providing concrete, some equipment manufacturers, the
15 Iron Workers, of course, some foundation drillers, a
16 good variety of comments.

17 We are taking a look at those. That is
18 certainly in the mix as we continue to have our
19 discussions with our political appointees about which
20 standards we are going to move forward on and how we
21 are going to kind of prioritize our agenda.

22 We also have a number of directives under

1 development. We have been putting a lot of work into
2 the cranes and derricks' directive. We do have a full
3 draft of the directive, and we have been holding
4 regular meetings, so we try to get together two or
5 three times a week with our crane team and walk through
6 that.

7 We are hopeful some time shortly after the
8 first of the year, we will get that out into our
9 clearance process.

10 Directives go through a clearance process that
11 involves sending them out to all of our regional
12 administrators and to various directorates here in
13 D.C., to make sure it is making sense and it doesn't
14 interfere with other directives and other policy
15 statements that are out there.

16 We also are working on one for personal
17 protective equipment. The directive here is really
18 sort of a press forward PPE standard that we put out
19 several years ago.

20 What it really deals with more than anything
21 are the PPE payment requirements, and of course, some
22 of the court decisions that we have had around PPE and

1 kind of the limitations of the PPE standards that we
2 have.

3 We are also just getting started on a
4 construction chapter to the Field Operations Manual,
5 and revision of our directive on excavation and
6 trenching, and this is fairly small, just to try to
7 make sure we have collected the correct evidence for a
8 couple of the paragraphs that are a little bit tricky.

9 We are also working on a directive that deals
10 with communication towers. We have a directive right
11 now that allows people that are doing construction work
12 on communication towers to be hoisted using a drum
13 hoist and a lift system, which is fairly scary
14 business.

15 Some of these are several hundred feet in the
16 air and they are using a drum hoist. It is important
17 that all the equipment with that drum hoist and
18 personnel lift and so forth match and be properly
19 maintained and so forth.

20 Of course, what has happened is the big push
21 on building communication towers has kind of ended.
22 What we have now is a lot of communication towers

1 scattered all across the country, and there is a
2 tremendous amount of maintenance work that goes on, and
3 work to put up the new generations of transmitters and
4 receivers that are being used as we go to 3G and now
5 4G, and whatever the high speed cell phone service of
6 tomorrow is going to have.

7 The question on this one is whether or not we
8 should expand and include maintenance activities in
9 that directive.

10 I want to talk a little bit about the crane
11 standard. Of course, we are now two years since we
12 published the crane standard. We are trying to get a
13 little more data on how it works.

14 I thought the committee might be interested in
15 a little bit of our most frequently cited paragraphs
16 and requirements in the crane standard.

17 Signal person is the number one problem we
18 have had. Signal person is not qualified. Materials
19 not being rigged by a qualified rigger. Failure to
20 have documentation from the signal person.

21 Annual inspections by a qualified person are a
22 problem. I think these annual inspections are really,

1 really critical. There are several different types of
2 inspections that are required, shift, monthly, and
3 annual.

4 The annual inspection is the one that really
5 takes a good hard look at the gear to make sure it's
6 operating properly and there isn't wear and tear that
7 can cause a safety concern.

8 This is one that I think is fairly
9 troublesome.

10 Power line safety. No determination that the
11 working radius is within 20 feet.

12 Operator manuals, load charts and so forth not
13 in the cab. People are operating the cab without even
14 the load chart.

15 Determination for safety is not made by a
16 competent person after deficiency was noted during an
17 inspection.

18 The requirement is if you do an inspection and
19 you find a deficiency, you need to determine if it's
20 going to create a safety hazard. If it's going to
21 create a safety hazard, then you need to fix that
22 before you operate the crane.

1 Requirement for monthly inspection results,
2 same problem.

3 Missing labels supplied by the manufacturer.

4 We have enough citations that it is worth
5 taking a look at what the most common problems are. Of
6 course, this is helping us to guide kind of the
7 heaviest focus as we are drafting the directive.

8 We have also been completing a fair number of
9 letters of interpretation for the crane standard. I
10 think right now we put out somewhere around 20, maybe a
11 few more than that. We are at a point where the
12 letters of interpretation are kind of coming in at the
13 same rate they are going out.

14 We still have about 20 that we are working on.

15 We are getting to where we are dealing with a lot of
16 the more difficult issues.

17 Some that we have put out are the hours of
18 equipment operation versus the practical exam, when
19 people go in for a re-certification, operation of
20 cranes that have been de-rated by the manufacturer for
21 one reason or another.

22 The crane standard also applies to a vertical

1 mast forklift used with hoisting arrangements. This
2 was a very difficult one. It took us quite a while to
3 kind of figure out exactly how to deal with this.

4 The crane standard can apply to a forklift
5 using mechanical means, move the load vertically up and
6 down or horizontally, either side to side or front to
7 back, then the forklift is covered by the crane
8 standard.

9 We also had the issue of the mast climbing
10 scaffolds. Those are also covered by the standard.

11 Several questions for identifying the work
12 zone and working near a power line. This is actually a
13 pretty nice letter, it has several diagrams and walks
14 through the various options that employers have for
15 identifying a safe working zone when they are close to
16 an electric power transmission line.

17 Apprentice programs used to qualify riggers
18 and signal persons. We had several of those from a
19 couple of the Unions.

20 We are still continuing to work on future FAQs
21 and interpretations. We put out 25 FAQs earlier this
22 year, which helped to resolve a lot of the issues, and

1 perhaps not resolved one very important one.

2 We are continuing to work on extended reach
3 forklifts that are being used as a crane, as a hoisting
4 device.

5 DC voltage, articulating knuckleboom crane
6 questions. The most difficult one we have been dealing
7 with, which is the crane capacity question around
8 operator certification.

9 The standard includes, in my opinion, very
10 unambiguous language about the fact that certification
11 is required for cranes by type and capacity.

12 I looked at this photo. It's a very dramatic
13 photo where a crane company has used one crane to lift
14 a smaller crane and then done that several times, so
15 that all three of these cranes are up in the air, each
16 one lifting the next.

17 It highlights this capacity problem where kind
18 of the basic question is should the person who is
19 certified to operate the smallest crane in this series,
20 should that certification also allow them to operate
21 the largest crane in that series.

22 This wound up being a very difficult issue.

1 There are four crane certification bodies. Two of them
2 have certifications by both type and capacity and two
3 of them do not.

4 The two that do not are issuing certifications
5 today that do not have capacity on them.

6 In 2014, when that requirement kicks in, if
7 there isn't some sort of change or some kind of a
8 solution to the problem, those cards are not going to
9 be valid.

10 We have had a number of conversations with the
11 crane certification community, with the different
12 groups that are involved in the crane world, the SCRA,
13 the operating engineers, groups like that.

14 We recently received a letter from the
15 operating engineers encouraging us to go into
16 rulemaking on the issue.

17 This is going to continue to play out where we
18 haven't found the answer yet but hopefully we will
19 pretty soon. Certainly, we want to make sure we have
20 properly certified crane operators when that
21 requirement goes into place.

22 CHAIRMAN STAFFORD: If I can understand this

1 real quick, is it OSHA's position that if you were
2 certified in the largest crane, you would still have to
3 be separately certified in the other capacities as
4 well?

5 MR. MADDUX: The standard is actually very
6 clear that if you are certified on a large crane, you
7 are also certified to operate any crane with a lower
8 capacity.

9 For example, with this photo, if the person
10 had been certified on the largest crane in this series,
11 they would have automatically been certified to operate
12 all of the smaller cranes.

13 This is actually another photograph. This is
14 a crane collapse that happened in Houston, Texas with
15 three fatalities. This is a very large crane, actually
16 took out a second crane as it came down. Tremendous
17 life injury and property damage.

18 The operator of this crane was not certified
19 or qualified to operate this device. There were a
20 number of root causes that came into play with this
21 accident. That is certainly one of them.

22 This is before the crane standard came in. We

1 issued a citation to the employer for this problem, and
2 that citation has been upheld through the Review
3 Commission level for not having a qualified crane
4 operator.

5 I'd like to shift a little bit to the falls
6 prevention campaign. Dr. Michaels will be talking
7 about this this afternoon. It has been a very
8 successful campaign. We have been very, very pleased
9 with it.

10 We have come out with a number of different
11 products. We came out with a poster in English and
12 Spanish. We came out with a four page fact sheet that
13 focuses on the three areas where the greatest number of
14 fall fatalities take place, ladders, scaffolds and
15 roofs being the three.

16 That has been translated into several
17 languages now, and we are continuing to work on more
18 translations.

19 One of the most popular products we have
20 produced has been the toolbox sticker. This was a very
21 nice idea that Eric Harbin came up with, who used to be
22 in the Directorate of Construction and since moved down

1 to work with Region VI as the Deputy Director.

2 They have been just tremendous. When I go out
3 and do speeches around the country, I'll typically grab
4 a roll of these and throw them in my backpack and take
5 them along. I have yet to bring a sticker back.

6 I actually brought a roll. Jeremy had asked
7 for some yesterday.

8 I also want to put out an open invitation to
9 the members of the committee or for that matter, to
10 people who are in the audience today, we do have a lot
11 of these materials available still here in the
12 building, if you need more materials for the falls
13 prevention campaign, which will be re-launching next
14 Spring for the second year, please talk to somebody on
15 the DOC staff and we will connect you up with the right
16 people to make sure you can get the materials that you
17 need. You can either take them with you or we will be
18 happy to ship them to you.

19 We also have produced a number of products on
20 residential construction falls protection. In late
21 2010, we issued a directive that brought residential
22 construction under the same falls protection

1 requirements as other types of construction are
2 required to follow.

3 That has been a long process. We have gone
4 through a number of different phase-in's. We published
5 a very large number of fact sheets, I think nine of
6 them, on different types of residential construction
7 activities, giving people information about how to
8 provide falls protection.

9 One of the recommendations of this committee
10 was all those fact sheets be translated into Spanish.
11 We have made some good progress on that.

12 We had this little event up on the East Coast,
13 the storm called "Sandy." We have been putting in a
14 lot of effort into trying to get some guidance
15 materials up to the people that are doing clean up work
16 and demolition removal and construction work up in the
17 New York and New Jersey effort.

18 Several of those required some translations
19 into Spanish and Portuguese. We sort of shifted our
20 resources to make sure we were getting the materials to
21 those people that are in such need of safety
22 information and other services right at this time.

1 As soon as that effort starts to kind of slow
2 down a little bit up in the New York and New Jersey
3 area, then we will complete those interpretations and
4 get all of those in Spanish.

5 We also had several guidance products under
6 development, a roofing document, a couple of video's
7 from the State of Washington that showed some nice
8 techniques. I think the video approach is always a
9 very nice way to try to get guidance out to the public.
10 It's very powerful.

11 We also are working on a revision of our
12 general falls protection guidance document. That is in
13 its last review with our Solicitor's Office.

14 One of the things we found and talked about
15 with our training and outreach group was doing a gap
16 analysis of our existing publications and outreach
17 materials.

18 One of the things we discovered fairly early
19 on in the falls prevention campaign is that we had very
20 few products on ladders and scaffolds. We have been
21 working on six fact sheets, three for each one of those
22 topics.

1 We have three of them on ladders, one for
2 extension, step ladders and job made ladders. Those
3 are along in the clearance process. We will definitely
4 have those ready probably next month.

5 Three of them are on scaffolds, they are just
6 getting ready to go into the clearance process.

7 What we are trying to do here is kind of
8 reload some new materials so that when we re-launch the
9 falls prevention campaign in the Spring, we will have
10 some fresh publications that meet the needs for people
11 to get a little bit more safety information on these
12 important topics.

13 I put this slide in. This is the web page
14 that houses video tools, what we call V-Tools, that
15 have been produced by our sister Directorate, the
16 Directorate of Science, Technology and Medicine.

17 In late 2010, we published 13 of these
18 video's. One of them is a live video that has to do
19 with trench safety and primarily with doing the soil
20 test, to try to determine the types of trenching safety
21 requirements that would come into play.

22 Twelve of them were animated video's. Each

1 one of these animated video's is based actually on one
2 or more fatalities that have occurred in the
3 construction industry, and shows what happened, how the
4 fatality occurred, using an animated video clip, and
5 talks about what could have been done to avoid the
6 fatality.

7 These are extremely powerful training tools.
8 Low literacy. Available in English and Spanish, and a
9 version that does not have any voice over at all, so if
10 people want to download it, they can do their own voice
11 over in whatever language they need.

12 Those have been enormously popular and we
13 think they have been very helpful.

14 I just wanted to let you know that the
15 Directorate of Technical Support is working on two new
16 ones.

17 One of these is going to deal with a scenario
18 where a worker swings an extension ladder into a power
19 line, which is a fairly common fatality scenario that
20 we see in our fatality reports, and I'm sure some of
21 you may have heard some of these.

22 The second one is going to be on commercial

1 sky lights on a flat roof. This is also a continuous
2 problem. We see several fatalities per year where a
3 worker goes through one of these flat roof sky lights.
4 It is a big problem.

5 I just wanted to put up the nail gun guidance
6 document. We published this very early this year in
7 English, had a very big roll out effort. This is a
8 joint document with NIOSH and OSHA.

9 When we rolled out the English language
10 version, Christine Branche and I put together a fairly
11 big outreach program using e-mail blasts and phone
12 calls and so forth.

13 The document has been enormously popular. I
14 think we are pretty close to half a million downloads
15 now. It is also the only OSHA guidance document that I
16 know of that has been picked up by Amazon and is
17 available for your Kindle reader on Amazon for \$1.99.
18 No, I am not getting a cut, unfortunately.

19 We just recently launched the Spanish language
20 version. This is now available in Spanish as well.
21 Christine and I worked together to do a second sort of
22 roll out for the Spanish language version, to not only

1 announce and try to get more attention to the Spanish
2 language version but also sort of reemphasize the
3 English language version.

4 We are really looking forward to seeing the
5 injury data come out. I think the emergency room
6 visits for nail guns in the past has been somewhere
7 around 30,000 per year. We will be very interested to
8 see if there are any changes to that number as we go
9 forward. This guidance document may help avoid some of
10 those injuries.

11 MR. JONES: Walter Jones, employee rep. What
12 do you attribute the popularity of this document to?

13 MR. MADDUX: I'm not sure we know for sure.
14 We do have some ideas. I think one is it is now just
15 such a common tool in the workplace, everybody that has
16 a nail gun recognize these are a dangerous tool and of
17 course, a very useful tool.

18 Almost everybody in the construction industry
19 knows somebody that has been hit by a nail using one of
20 these tools.

21 This is a very dramatic kind of an x-ray of an
22 injured worker that really has drawn attention to it.

1 That is one of the things we are kind of trying to
2 continue to study and take a look at, what was the draw
3 to this document, for lessons learned to use for future
4 guidance documents.

5 CHAIRMAN STAFFORD: Christine?

6 DR. BRANCHE: Christine Branche, NIOSH. One
7 of the things we have heard is it doesn't look like
8 most Government documents. We really tried to make it
9 so the document was easy to read, that it is low
10 literacy, has a lot of visuals, a lot of white space,
11 and has information -- it's hard to have a document
12 that has useful information but isn't verbose, and we
13 worked really hard to make sure it is all those things.

14 We also have reached out in the Spanish
15 version to the medical community. Again, as Jim said,
16 it's an opportunity to reinforce the fact that the
17 English version is available, but in this one, we have
18 deliberately reached out to the medical community in
19 this version.

20 We are conducting some telephone follow back's
21 with a few of the people that Jim and I have reached
22 out to to get their take on it. We weren't able to do

1 that when we released the English version. We are
2 making a few calls to get the take on the Spanish
3 version.

4 CHAIRMAN STAFFORD: Thank you.

5 MR. MADDUX: We also have copies of those
6 available if anybody wants a few of them. We still
7 have several cases here in the building, both English
8 and Spanish.

9 At least from my viewpoint, and I think
10 Christine would agree with me, I think this and the
11 falls prevention campaign have some wonderful examples
12 of some cooperation and collaboration between OSHA and
13 NIOSH to develop some products, to develop a campaign,
14 to combine the research capability of NIOSH with what I
15 kind of call the brand name of OSHA, and come up with
16 products that are technically sound, written in a way
17 that is helpful to the community, and then to get those
18 out and get them into the hands of the people that can
19 do some good with them.

20 We are continuing to look at different kinds
21 of things where we can work together and collaborate on
22 different issues like this. I think we will probably

1 have several more projects coming up over the coming
2 years.

3 That's all I have today. I would be happy to
4 take any questions or talk about any issues people
5 have.

6 CHAIRMAN STAFFORD: Thank you, Jim. You sure
7 have been busy. It is always good to see OSHA
8 following up on the recommendations that comes from
9 this group. We appreciate your work and the rest of
10 you.

11 I would be glad to open it up to the committee
12 if there are any questions or comments.

13 MR. CANNON: Kevin Cannon, employer rep.
14 Yesterday during the injury and illness prevention
15 program work group, there was quite a bit of discussion
16 on the focused inspection policy. You mentioned you
17 guys had just started working on the construction
18 chapter for the FOM.

19 Is that something that will be or could be
20 included in there?

21 MR. MADDUX: It certainly could be, at least
22 reference it. It is very construction specific.

1 MR. CANNON: Laying out what the specific
2 criteria is. I think it was Tom Shanahan who stood up
3 and kind of read the memo.

4 MR. MADDUX: I think there was actually a very
5 interesting discussion yesterday, and there was some
6 discussion about whether or not we should sort of go in
7 and take a look at the materials that were produced for
8 the focused inspection policy back in the mid-1990s.

9 I think there was a memo from James Stanley
10 who sort of announced it at that time, and whether or
11 not we should go in and take a look at the materials
12 and sort of re-launch that focused inspection program
13 and try to raise awareness of it.

14 MR. CANNON: Yes. That was my thinking, try
15 to raise awareness.

16 MR. MADDUX: Certainly, our people in the
17 field are aware of it. It is still a very active
18 policy. When construction employers ask for a focused
19 inspection, we have a routine that we go through.

20 CHAIRMAN STAFFORD: Tish?

21 MS. DAVIS: I know your staff is aware, is the
22 construction community aware of it, is there a

1 mechanism by which we could --

2 MR. MADDUX: I think that is the issue Kevin
3 is raising and Tom Shanahan raised yesterday, should we
4 do something to highlight that and make sure the
5 construction community is more aware of that option.

6 Certainly, one of the goals of that whole
7 policy was to try to encourage people to develop more
8 robust safety and health programs short of having a
9 regulation that required that.

10 I think re-launching it and re-publicizing it
11 would probably have some value.

12 CHAIRMAN STAFFORD: I think that is a good
13 idea in the context of our discussion on I2P2. I don't
14 know what the criteria was, and maybe an evaluation
15 that this contractor had a good program. It would be
16 interesting to revisit as a part of this discussion.

17 MR. MADDUX: We will get together printed
18 copies of the materials that came out in 1994 for the
19 focused inspection policy and make sure that everybody
20 on the committee has that.

21 CHAIRMAN STAFFORD: The construction chapter
22 in the Fields Operations Manual, I'm assuming that is

1 kind of internal work within OSHA, as opposed to
2 getting any kind of outside input.

3 MR. MADDUX: Directives are usually more of an
4 internal thing. I think there is some confusion on
5 this sometimes, on the part of the public.

6 Our directives are really not designed to try
7 to give guidance to the public. They do serve that
8 function as sort of a secondary function but the real
9 purpose of our directives are to give guidance and
10 direction to our field staff.

11 They really are sort of internal documents
12 where we are trying to tell our field staff how to
13 enforce a particular standard, or in the case of the
14 Field Operations Manual, the exact sequence of steps
15 they will go through as they do an inspection, as they
16 collect evidence, as they get the information into our
17 computer systems and so forth.

18 CHAIRMAN STAFFORD: Thank you. Don?

19 MR. PRATT: Jim, I'm concerned about what you
20 had said about -- maybe "concerned" is not the right
21 word -- I'm questioning what you said about the crane
22 and derrick standards being applicable to forklifts and

1 certain kinds of forklifts. I understand not all.

2 In construction, as you well know, forklifts
3 are being used a lot all the time.

4 Is it the intention of the standard to have
5 the crane and derrick standard the same for a forklift
6 as it would be for a derrick crane or some other type
7 of commercial type of crane?

8 MR. MADDUX: Yes.

9 MR. PRATT: Why?

10 MR. MADDUX: I'm not sure a large portion of
11 the construction industry really knows this, as we were
12 going through the rulemaking process, that the
13 rulemaking was very clear that it could apply to many,
14 many different types of devices that were being used in
15 lieu of a crane.

16 MR. PRATT: My mason who has a laborer running
17 a forklift, if it's the right kind of forklift, is
18 going to have to get the crane and derrick
19 certification and card.

20 MR. MADDUX: That is some of the questions we
21 are working through right now because kind of the
22 problem here is the way the crane standard is written,

1 it does apply to certain types of forklifts, and we
2 hope one day can basically be used to hoist equipment
3 that is being suspended using a rigging or a hook.

4 We also have requirements in our powered
5 industrial truck standards that have specific
6 requirements to forklifts.

7 What we are trying to sort out right now kind
8 of in our FAQs and in our enforcement directive
9 guidance to our field staff is how are those two sets
10 of requirements going to mesh, when are the powered
11 industrial truck training requirements going to end and
12 when the training and certification requirements of the
13 crane standard are going to begin.

14 MR. PRATT: I would like to suggest that OSHA
15 please consult with employers and with labor on the
16 different types of applications for the forklifts in
17 construction, and to see how we can work together to
18 try to make that whole area safer rather than just
19 having a bunch of regulations that nobody is going to
20 follow anyhow.

21 MR. MADDUX: I think you raise a good point
22 but this is a regulation that is final. It has been

1 published. It is in effect.

2 What we are trying to deal with right now is
3 trying to do the best job we can of making some
4 reasonable interpretations of what's on the books.

5 This is one of the most common questions that
6 we have had coming into the Agency as a result of the
7 crane standard.

8 In the last batch of FAQs we issued, we issued
9 one FAQ on the vertical mast forklift and we have a set
10 of five or six more FAQs that are nearing the end of
11 the clearance process right now that we are going to
12 issue to try to answer some of these follow on
13 questions.

14 Technically, our field people probably could
15 be issuing citations for forklifts on construction jobs
16 for some of these things now.

17 It is very important that we get out as much
18 direction as we can about how to deal with this. This
19 is the same problem. The crane standard has a very
20 general definition in its Scope section. It talks
21 about a piece of equipment that can mechanically raise
22 and lower and horizontally move a load.

1 There are a lot of pieces of equipment that
2 can do that. That's why, for example, on these mast
3 climbing scaffolds, a lot of the mast climbing
4 scaffolds now have a hoist that is attached to them
5 that can raise and lower and move it horizontally so
6 you can land the material on the scaffold.

7 It winds up technically being covered by the
8 crane standard, and we have to figure out the most
9 rational way to implement that.

10 MR. PRATT: Thank you.

11 CHAIRMAN STAFFORD: Any other questions or
12 comments?

13 (No response.)

14 CHAIRMAN STAFFORD: I just have one question
15 for you, Jim, before I let you go. You had mentioned
16 you had not yet started working on the mast scaffold
17 guidance document. Are you planning to do that?

18 MR. MADDUX: It is something I would like to
19 do. I think it would be a worthwhile project. At
20 least right now with some of the other things that are
21 going on, it hasn't gotten a high enough priority level
22 to kind of start applying some resources to it.

1 CHAIRMAN STAFFORD: I appreciate that.

2 MR. JONES: You mentioned during your remarks
3 about response to Sandy. What role was your department
4 playing in response to Sandy or do you have a role or
5 was that led by the region?

6 MR. MADDUX: We haven't had much of a role in
7 the Directorate of Construction, a few technical
8 questions, if certain situations arise that come in
9 from our field staff. That has been kind of the limit
10 of our involvement. Most of that is handled by the
11 folks in the region that are actually on the ground
12 dealing with the day to day issues.

13 What we do here in D.C. for the most part is
14 we just try to make sure that when they need something,
15 we are getting it to them as quickly and efficiently
16 and of highest quality we can to help support their
17 effort.

18 A lot of that is actually managed by our
19 Directorate of Technical Support and Emergency
20 Management. Amanda Edens is the Director there.

21 If there are issues, for example, issues of
22 trying to coordinate with FEMA at a national level,

1 Mandy will take care of that here in the D.C. area
2 while Bob Kulick, Regional Administrator in New York,
3 is dealing with people at the local level.

4 We also brought in to try and help with that
5 effort in New York -- regions have sent COSHOs to New
6 York City. We are rotating people through New York
7 City on details that have safety and health experience
8 so we have an additional number of people that actually
9 have boots on the ground to try and get out and make
10 sure people are working safely.

11 We have all seen the debris piles and so forth
12 out on the street. Now there is an issue that is
13 starting to develop that has to do with mold. A lot of
14 flooding and mold issues.

15 They are trying to figure out how to deal with
16 that, do we need some additional guidance.

17 We can't accept, for example, donated PPE and
18 hand it out. What we have done is kind of help
19 coordinate between people who are willing to donate PPE
20 and local organizations that have the capability to
21 distribute it to the workers. We are trying to make
22 those connections where we have the opportunity.

1 There has been an awful lot of work in Region
2 2. They are working unbelievably hard right now to try
3 to protect the workers that are trying to do all this
4 work up there.

5 CHAIRMAN STAFFORD: What are you seeing,
6 Walter, from the laborers and through the building
7 trades? We are trying to get a handle on some
8 hazardous waste or training needs. We are not getting
9 a lot of feedback.

10 MR. JONES: I can't speak directly for the
11 laborers but just for the network of occupational
12 safety and health groups, the concern right now is the
13 mold concern and the respiratory requirements, and
14 where we are going to go with that.

15 There is no PEL or no requirement for
16 respirator use pro se in clean up efforts with mold,
17 but now there is concern that because there isn't, how
18 are we going to handle that whole area.

19 Folks are looking to you guys for guidance.
20 That's what I'm hearing. I thought maybe you or Dr.
21 Michaels would speak to that.

22 MR. MADDUX: Dr. Michaels might know more

1 about it. I just heard about the mold concern
2 yesterday. I have seen several news clips where people
3 were using at least like an N-95 respirator while they
4 were doing some of the demolition work and so forth, to
5 try to address the concern.

6 MR. JONES: The hazards assessment associated
7 with that, like some folks are getting a hazards
8 assessment that says go ahead and wear them. They are
9 being allowed to wear them without the medical testing
10 requirements.

11 Someone is going to have to jump in and wade
12 through it at some point, I would imagine.

13 MR. MADDUX: People are working on wading
14 through those issues right now. Issues come up and we
15 get people on top of them, trying to figure out what
16 the right thing is to do.

17 MR. JONES: I would just suggest getting your
18 message out as well, like all the things you said, all
19 the stuff you guys are doing down there.

20 MR. MADDUX: There is a tremendous amount of
21 work. The Secretary and Jordan Barab, our Deputy
22 Assistant Secretary, are traveling to Staten Island

1 today. There is a very real concern for worker issues
2 in the area, for worker safety issues, also from our
3 sister agencies on wage and hour issues and things of
4 that sort, the Department of Labor. We have boots on
5 the ground out there.

6 CHAIRMAN STAFFORD: It has become very
7 complicated typically in terms of FEMA, some is
8 Davis-Bacon, some is not, those types of issues.

9 Jeremy?

10 MR. BETHANCOURT: Jim, you had mentioned you
11 are going to be re-launching or re-initiating the falls
12 campaign in the Spring. I was curious what kind of
13 efforts there have been or success in reaching out to
14 the state programs where they may not be fitting under
15 the same jurisdiction as OSHA.

16 MR. MADDUX: We have reached out to the state
17 programs. Maybe Chuck could talk to us a little bit
18 better than I. I think all of the states are
19 participating.

20 We made a huge effort. Scott came out and
21 talked to our state plan association and I have talked
22 to our state plan association. We send out regular

1 e-mails/blasts to them when we have new materials or
2 new launches. We include both the state plans and the
3 consultation plans.

4 We have also done a fair amount to reach out
5 to state Workers' Comp and compensation agencies and to
6 the state and territorial epidemiologists that
7 Christine works with.

8 We have been doing a lot to try to reach out
9 to a lot of state and local people that we have
10 relationships with and to include them.

11 MR. BETHANCOURT: Thanks.

12 CHAIRMAN STAFFORD: Kevin?

13 MR. CANNON: I have a question regarding the
14 type and capacity issue. You mentioned there were two
15 of the four that OSHA at this point deems not to be
16 compliant with the certification requirements. You
17 also mentioned unless some progress is made, come 2014,
18 some of those certifications will be invalid.

19 That is going to penalize contractors who
20 thought they were being proactive. How are you
21 considering dealing with that? Grandfathering in
22 folks?

1 MR. MADDUX: There are probably a number of
2 different things that we can do. I'm not sure what we
3 are going to do right now to resolve it. I'm sure we
4 will resolve it.

5 It's going to be taken care of but at least
6 for right now, the road to taking care of it is not
7 entirely clear.

8 CHAIRMAN STAFFORD: Any other questions or
9 comments?

10 (No response.)

11 CHAIRMAN STAFFORD: One last thing. Is
12 Kentucky, for instance, doing Focus Four?

13 MR. STRIBLING: Kentucky does not do a Focus
14 Four inspection program. We found from a resource
15 standpoint when we send a compliance officer to inspect
16 a site, they just go ahead and inspect the site.

17 MR. MADDUX: Especially on a construction
18 inspection, taking the time to actually evaluate the
19 safety and health program that is in place at the site
20 is a fairly time consuming effort for the inspection
21 staff.

22 CHAIRMAN STAFFORD: Don?

1 MR. PRATT: First of all, I can assure you
2 that in Michigan, they are doing as good a job as they
3 possibly can in falls protection. We have had nearly
4 100 seminars put on by My OSHA over the last year.
5 They are doing a superb job in getting the word out.

6 The problem is we have to get somebody to
7 listen to us. That is a real challenge.

8 Secondly, with Focus Four, Jim, I don't think
9 you know this but this year at the International
10 Builder show put on by the National Association of Home
11 Builders, we are actually going to focus on the Focus
12 Four in the display area, and we are actually going to
13 give awards out for people that go around the different
14 stations and learn about the Focus Four program.

15 I was going to announce this to you when you
16 got there, but I'll do it now. We are looking forward
17 to the impact that may have on our building members.

18 MR. MADDUX: I think that is a great move.

19 MR. HERING: Listening to the reports and
20 everything on Hurricane Sandy, our company is a
21 restoration power company, a big utility contractor, so
22 we were called in with the other utilities.

1 We had about 170 linemen and 70 vehicles. I
2 had a staff of about 20 safety professionals managing
3 to visit every site as we tried to rebuild Seaside
4 Heights, all the way up into Long Island, down to Cape
5 May.

6 The camaraderie of the line people that came
7 out, and really the different line companies,
8 Mississippi Power, Alabama Power, they were flying line
9 truck bucket trucks in on KC-10s to McGuire Air Force
10 Base from California with crews.

11 I have to say the safety work and the
12 expertise was phenomenal. I just wanted to mention
13 that. When you get out there and you go into a
14 neighborhood, and the wires are still sparking, it's
15 dark and wet, there is a lot of danger. It was quite
16 an event.

17 It was really a phenomenal experience for five
18 weeks, three conference calls a day between our safety
19 teams and our management teams, and then we had to
20 interact with all the other power companies. It was
21 absolutely phenomenal. I've never seen anything like
22 it in my 45 years in safety.

1 MR. MADDUX: I think the OSHA staff that are
2 working up there feel the same way, very, very
3 rewarding work they are doing to try to contribute to
4 worker safety during such a difficult time.

5 CHAIRMAN STAFFORD: Thank you. Chuck?

6 MR. STRIBLING: Like I said, we don't do Focus
7 Four inspections but an employer has to have a written
8 and documented safety and health program.

9 Even now, when a compliance officer goes out,
10 they do that. If you go to a site and there is a
11 written safety and health program -- they are letting
12 the subs participate and doing the same thing -- you
13 know it's going to be a good site.

14 I want to do that inspection. It would make
15 my job pretty easy today. I know I am going to go see
16 a good site. If you take care of those big cranes,
17 everything else seems to fall in line.

18 When I say we don't do it, we don't formally
19 do the Focus Four program any more, but those are sites
20 that our compliance officers like to be at. Those are
21 the employers that get it.

22 CHAIRMAN STAFFORD: I look at it in two ways,

1 as opportunities. If you went out to do a Focus Four
2 and your first step is to look at the written programs
3 and they don't have a good one, why not share good
4 information on what we think a good program ought to
5 look like as a starter.

6 Chuck, back to your point, I thought one of
7 the purposes of it was just contrary to what you said,
8 that if you went out to a site, they obviously knew
9 what they were doing, they had a good program, you
10 targeted on those four things real quick and you got
11 out and went on down the road to inspect the other
12 sites that may not be so good. I thought that was the
13 intent initially.

14 MR. MADDUX: Yes, I think it had multiple
15 purposes. That was certainly one of them. Just doing
16 a review of somebody's safety and health program
17 creates conversation that's worth having probably at a
18 lot of work sites. What does your program look like,
19 does it really work. Always a good conversation.

20 I would just like to finish up. I want to
21 thank Ben and Damon and all the DOC staff. There is a
22 lot of behind the scenes work that goes into preparing

1 for one of these meetings and actually making it work.

2 I think everybody is doing a really great job.

3 CHAIRMAN STAFFORD: Thank you, Jim, and thank
4 your staff very much.

5 (Applause.)

6 CHAIRMAN STAFFORD: Our favorite topic, OSHA
7 training. We have Dr. Henry Payne here with us,
8 Director of the OSHA Training Institute. I want to
9 thank you very much for being here.

10 MS. SHORTALL: I'd like to enter a few
11 exhibits into the record.

12 Exhibit 1, November 29-30, 2012 ACCSH meeting
13 agenda. Exhibit 2, DOC Regulatory Update PowerPoint
14 presented by Jim Maddux.

15 CHAIRMAN STAFFORD: Thank you, Sarah. Dr.
16 Payne, I think we are here to talk about what's going
17 on with on-line training. Thank you very much for
18 being here.

19 At our meeting last time or maybe two times
20 ago, as you recall, the committee felt it was important
21 to stay tuned in to what OTI is doing, and to the
22 extent that stakeholders can give you some advice or

1 you want to hear from us on what we think about the
2 programs and how we can help you, that's our intent.

3 Thank you very much for being here today.

4 ON-LINE TRAINING ISSUES

5 DR. PAYNE: Thank you for inviting me. The
6 agenda says on-line training issues. I suppose you are
7 not really interested in what OTI is doing. I think
8 you want to know more about the 10 and 30 hour on-line.

9 CHAIRMAN STAFFORD: Yes, I think that was the
10 intent of the work group; yes.

11 DR. PAYNE: That's fine. Internally in OSHA,
12 we do a lot of on-line training. We do what we call
13 webcasts, video and audio, out to the field, to the
14 Federal and state compliance people, and then we have
15 audio coming back in where they can ask questions.

16 Over the last five years, we have done about
17 60 of those. We average about one per month on various
18 topics. We use them for updates, items of interest for
19 the Assistant Secretary.

20 We have what I would call traditional on-line
21 learning, where students can interact with computer
22 based learning.

1 We give primarily a blended format. Students
2 have anywhere from a 3 to a 15 hour up front
3 requirement that they must complete before they come to
4 the Institute to complete the instructor leg portion.

5 That has been very helpful for us, both in
6 terms of getting all the students kind of on a level
7 playing field before they show up, and it has allowed
8 us to reduce the course length where people are
9 actually in Chicago.

10 Some courses that used to be a week and a half
11 long, we have been able to shorten them to a week long
12 by adding this on-line piece up front.

13 That has been very successful for us.

14 When John Henshaw became the Assistant
15 Secretary, he asked us to do as much as we could
16 on-line, both internally and externally. In the
17 discussion, he asked us to work and try to get the 10
18 and 30 hour outreach program on line.

19 We did that. We did that in a way that we
20 developed requirements and people who were interested
21 in doing the 10 or 30 hour on-line would submit an
22 application. We would go through the review and

1 comment process back and forth.

2 It took about a year of us working with each
3 applicant before we could get to a point where we were
4 comfortable in approving their training programs.

5 Most of the issues, quite frankly, were
6 content issues. They just weren't safety people. A
7 lot of the people trying to do the training were good
8 at on-line training but they just didn't have a safety
9 and health background and didn't understand the
10 importance.

11 The requirement was for them to hire outreach
12 trainers in order to do this, that was part of the year
13 long process and dragging this out.

14 You don't know what you don't know when you
15 start something like this. We never assumed or
16 expected the people we approved to do the 10 and 30
17 on-line for construction and general industry and
18 maritime would use resellers to the extent they had.

19 The use of resellers became a huge customer
20 service problem where you go on-line. You select what
21 you think is a training provider for the 10 hour
22 construction course. You register. You pay with your

1 credit card.

2 The first time you have a problem, you find
3 out the person you thought you were taking the training
4 from actually isn't the person you are taking the
5 training from, and it may be two or three companies
6 removed before you could actually get to the person
7 providing the training.

8 It created a lot of frustration, a lot of
9 complaints. We decided in working with the Solicitor's
10 Office, and in particular, a great solicitor there, a
11 guy named John Shortall, who we think does a great job
12 for us, we worked out a way where we were going to
13 compete the ability to be an on-line trainer, similar
14 to the way that we do the OTI education centers.

15 We drafted a Federal Register Notice. We put
16 it out. We got applications in. We reviewed the
17 applications. We made selections.

18 Two of the providers who were not selected
19 filed claims in the Federal Court of Claims, which is
20 where people go to file a challenge to a contract.

21 We argued, "we" being basically John Shortall,
22 Rob Swain -- I argued a lot louder than they did but

1 probably my arguments couldn't be used -- that it
2 wasn't a contract.

3 We signed a non-financial cooperative
4 agreement. It means we don't give them any money.
5 According to the Justice Department and the solicitors,
6 one of the three requirements of a contract is you
7 exchange money for goods or services, and there was no
8 exchange of money.

9 The Judge determined that there was an
10 exchange of value rather than money. He determined our
11 solicitation was a contract. It wasn't written like a
12 contract. It wasn't meant to be applied as a contract.

13 In negotiations back and forth between us with
14 our solicitors and the solicitors with the Justice
15 Department and the Justice Department with the Judge,
16 we agreed we would cancel the solicitation, we would
17 revise it basically into a form that looks like, smells
18 like, tastes like a contract, but we are still not
19 going to call it a contract, and re-announce the
20 solicitation.

21 We are in the process of doing that now.
22 Hopefully, right after the first of the year, that will

1 be announced. We will again go through the process and
2 make selections. Hopefully, award some time by early
3 Summer. It is a fairly lengthy review process.

4 CHAIRMAN STAFFORD: How many of these are
5 there going to be?

6 DR. PAYNE: I can't really talk about that
7 because we have a series of proposals, and we don't
8 know what is actually going to be in there yet.

9 Our whole basis for competing this was it's a
10 resource issue from my office. As I said yesterday, I
11 have two people who do the outreach training program.
12 One of them basically only issues cards for the
13 outreach training providers and the other one handles
14 all the program issues.

15 Ninety percent of Don's time is taken up with
16 on-line training issues, people calling in to complain,
17 people can't figure out who is actually doing the
18 training, et cetera.

19 What we are trying to do is reduce the number
20 of on-line providers to a select few so we would have
21 fewer issues and higher quality.

22 There are currently 11 total. It is our hope

1 the number would be fewer than 11, but whether it is
2 one or nine, at this point it's hard to say. We are
3 still trying to figure out what we can do and how we
4 can do it.

5 Of course, we are getting a lot of help from
6 the Justice Department as well in terms of things they
7 would like to see in this next announcement, to try to
8 avoid going through the same cycle we just went through
9 with the challenge.

10 It's a very slow, laborious process, but I do
11 believe once we put the announcement out, it will be a
12 very tight, well constructed announcement that if it
13 gets challenged a second time, we will be able to
14 withstand the challenge.

15 CHAIRMAN STAFFORD: Thank you. Tish?

16 MS. DAVIS: Will this new solicitation have
17 restrictions on the resell? How are you addressing
18 that, which seems to be the driving issue?

19 DR. PAYNE: We are not allowing resell. We
20 didn't allow it this past time. One of the things we
21 will allow is for people to put links on their website,
22 but we issued very clear guidance on how that would be

1 done so as not to appear that I'm actually the training
2 provider when all I'm really doing is providing the
3 link to the training provider.

4 You will know what you don't know when you get
5 into this, and we know a whole heck of a lot more now
6 than we did then.

7 We had very specific language on the linking
8 aspect, but we didn't put it in the Federal Register
9 Notice. This is where we had some issues with the
10 Judge. We didn't put everything in the Federal
11 Register Notice because otherwise, the Federal Register
12 would probably have had to be a separate publication
13 just for this announcement.

14 We didn't put everything in. He says it has
15 to be in it. The second time, it is going to be a very
16 lengthy and detailed description of everything that is
17 going to go on with the program. We have never done
18 that in the past.

19 CHAIRMAN STAFFORD: It was mentioned the
20 fraudulent cards and wives taking the training and
21 complaining they can't get the cards for their husbands
22 and that kind of thing, doing the on-line training.

1 What are the specific safeguards that you are
2 building in now that are going to resolve those kinds
3 of issues?

4 DR. PAYNE: With current providers, anybody
5 can call in or go on line and register for the
6 training. Anybody else can take that training for you.
7 There is no real way of determining who is taking the
8 training. That has become an issue.

9 As I said yesterday, we know it happens
10 because on at least two occasions, we have had people
11 call our office and complain they had just completed
12 the course for their husband and couldn't get the card.

13 We know it happens. We had a requirement in
14 there that the providers provide some form of what we
15 referred to as random user verification, which
16 basically means during the training, there is some
17 technological interruption that requires the learner to
18 do some kind of response that only the learner can do.

19 Some of the things we have seen demonstrated
20 is a very simple voice print, where when they register
21 for the course, they are required to call an 800 number
22 and read a sentence. It gets recorded.

1 During the training, their training will lock
2 up. The 800 number pops up on the screen, and they
3 have limited time, usually three minutes, to call the
4 number and give the voice print and have it verified,
5 and then it unlocks and they can continue.

6 A couple of places that we know use it say
7 it's very, very accurate, even for people who have
8 colds, it's very accurate.

9 There are other systems that are out there.
10 The simplest one is a lot of computers now come with
11 cameras built in, so you can randomly at various times
12 take photo's of the person who is doing the training,
13 and it should match the person who registered.

14 There are a lot of ways. We didn't want to
15 specify a way. We didn't feel we should tie
16 everybody's hands. We didn't want to create kind of a
17 massive industry for this.

18 We are going to have to provide more
19 guidelines and information in the request around how
20 and what our expectation is for this.

21 We were very general in the last announcement.

22 We will add specificity but we will not require a

1 given specific technology to do that.

2 CHAIRMAN STAFFORD: Thanks. Tish?

3 MS. DAVIS: This is really an observation
4 which you may or may not decide to comment on. It
5 seems given the discussion yesterday and hearing about
6 kind of workload demand today, that the context for the
7 training, at least in training programs since 1970, has
8 changed dramatically, particularly in most recent years
9 with mandatory training, electronic training, issues
10 with re-certification, a huge number of issues.

11 It would seem to me there is a need for an
12 assessment, I would say, and I would say an external
13 assessment, and then some real strategic planning.

14 It seems with the nature of the program and
15 the size, that you are basically reactive to
16 developments as they come along, and you really need a
17 proactive program that is taking a look at the needs.

18 It seems to me this would be an opportune time
19 to do this, and I understand for you it's a resource
20 issue, you can't take this on with two people, but I
21 would lay this out for the group. I think it is a
22 really important thing to address.

1 DR. PAYNE: As I said yesterday, I would agree
2 with you. Rather than being a headache for me, the
3 pain is a little lower down. It really is somewhat
4 frustrating for us.

5 It started off as a very simple,
6 straightforward program to provide workers with
7 information about OSHA and give them some general
8 awareness about the hazards they may be exposed to on
9 the job, and because of the success of the program, and
10 quite frankly, I attribute a lot of that success to the
11 adoption of the building trades and the employers in
12 the construction industry, that the program -- when I
13 showed up at OSHA in 1998, 100,000 cards for the first
14 time. Everybody thought that was huge and massive and
15 the program would level off and that would be it.

16 Well, this past year, we issued over 700,000
17 cards. We still had the same number of people
18 administering the program.

19 You are right, Tish. Don really is in a
20 reactive mode. He doesn't have time to do anything but
21 return calls and respond to e-mails and try to help
22 students sort through issues so they can get the cards

1 they need. Usually, they are desperate because they
2 need the cards to start a job.

3 We are trying to help the workers sort through
4 the issues and get the card. Don spends about 90
5 percent of his time doing those things.

6 CHAIRMAN STAFFORD: I think it would be a good
7 idea. It would be a matter of resources, but certainly
8 in terms of this committee trying to guide something
9 like that or working with you on it, we would be more
10 than happy to do that.

11 I think Tish is right. In the end, as you
12 said yesterday, this has become much more than you had
13 envisioned.

14 Chuck and I talked yesterday after that
15 particular work group, and it seems to me one thing
16 that this committee could do, instead of reacting to
17 what's happened in a voluntary program that has taken
18 on such popularity, whether you intended that or not,
19 the industry looks at OSHA 10 as the gold standard when
20 it comes to the basic ten hour hazardous awareness.

21 It's up to 700,000 a year. That is a big
22 number.

1 DR. PAYNE: Eighty percent of that is
2 construction.

3 CHAIRMAN STAFFORD: These are huge numbers of
4 folks in our industry being trained. If we could sit
5 down, ACCSH members and people in the audience here
6 today could say if we could start over fresh, how would
7 we build a program, and how would we make it work now
8 that we know what we know.

9 DR. PAYNE: As I said yesterday, I would
10 certainly support that in terms of help from ACCSH and
11 the work group.

12 CHAIRMAN STAFFORD: That would be great.

13 MR. ERICKSON: Speaking of the large number of
14 cards that are being issued, out of curiosity, a little
15 over a year ago, a number of the OTIs started charging
16 a fee, \$5.00, for the processing of cards.

17 How is that working? Is that relieving some
18 of the cost that has been associated, and is this
19 something that is going to stay as far as that charge?

20 DR. PAYNE: To answer your last question
21 first, yes. The fee is something that is here to stay.

22 As most of you may remember, a few years ago there

1 were a series of articles that ran in the New York
2 Daily News that were somewhat unflattering about
3 outreach trainers cutting corners doing outreach
4 training.

5 As a result of that, you tend to get a lot of
6 help from people. It was suggested that my office
7 should have somebody at every one of the ten hour
8 classes that takes place. There are about 300 of these
9 classes that go on every week.

10 I know Don likes to travel, but I don't think
11 Don would like to travel that much.

12 We sat down with the OTI education centers and
13 said to them look, whether we like it or not, this
14 sleepy little program that was under the radar and
15 everybody was happy with is now not only on the radar
16 but front page news.

17 We have to do something to work with the
18 outreach trainers to start improving the integrity of
19 the program in ways that we can.

20 One of the things the OTI education centers
21 did, they formed a work group. On their own, they came
22 up with a plan where they would start doing what we

1 call "records audits," where as outreach trainers
2 submit records to the education centers for their
3 cards, people review them.

4 If something looks odd or out of the norm, it
5 doesn't mean anything is wrong, but what they will do
6 is usually initiate what we call a "records audit," and
7 they will have them send in the back-up information and
8 they review the back-up information.

9 This past year, they did about 1,000 random
10 records audits of outreach trainers. They are also
11 randomly selecting trainers and they are going out and
12 doing observations of their training.

13 They will contact the trainer and say let me
14 know, send me the next time and location you are going
15 to be doing a ten hour, and they will send somebody to
16 actually monitor the training. We did about 250 of
17 those last year.

18 Part of the \$5.00 fee is to offset the cost of
19 them doing this monitoring. They have had to hire
20 people to do the monitoring. Quite frankly, there is a
21 cost involved with processing the cards.

22 The program has roughly 45,000 authorized

1 outreach trainers. Only about a little under 15,000
2 are what we would call active. We define "active" by
3 at least twice a year they do training and submit for
4 cards.

5 That means over two-thirds of the people
6 either don't do training they submit for or they do
7 less than two classes per year.

8 Some of these people, we believe, are internal
9 trainers for companies and don't submit for cards
10 because they don't see a need for the card. They are
11 doing training, they just don't particularly submit for
12 the cards.

13 It is a huge recordkeeping burden and it's a
14 processing burden. Quite frankly, we got the okay from
15 the solicitors about five years ago for the ed centers
16 to start charging for the cards. They held off as long
17 as they felt they could before they implemented the
18 fee, and then they started it. I think this past
19 Spring they started phasing it in, and I believe they
20 are all doing it now.

21 We will, too. We just have a longer tail that
22 we have to work through before we can start charging

1 the fee.

2 For the outreach trainers where we at OTI
3 process the cards, we, too, are going to be charging
4 for them this year.

5 MR. PRATT: Two questions. Of the nearly
6 600,000 that were trained in construction, do you know
7 the penetration that has in the entire industry, and
8 the second question is how many of those were on-line
9 trained?

10 DR. PAYNE: I honestly don't know the
11 penetration.

12 MR. PRATT: Are we talking about 50 percent or
13 10 percent?

14 DR. PAYNE: I don't know, how many
15 construction workers are out there?

16 MR. PRATT: I thought you would know that.

17 (Laughter.)

18 MR. PRATT: Right now, about nine million, so
19 a very small penetration.

20 Keep in mind, the outreach card for ten hour
21 does not have an expiration date. If you took the
22 training in 1978 and you managed not to run your card

1 through the wash or have your dog eat it or something
2 else, that card is still valid today.

3 Some people just say you have to have the
4 card. Some employers say you have to have the card
5 within the last three years, some say the last five
6 years, and some states and municipalities have
7 different time limits for the age of the card.

8 For a lot of workers, as long as they have a
9 card, it's good.

10 My reason for asking the question is is this
11 going to continually get larger numbers every year or
12 are you going to reach some kind of plateau where we
13 are going to level off.

14 That has a lot to do with our discussion about
15 what do we do to get you some help. Is it going to be
16 short term or is this going to be something we are
17 going to have to contend with for the duration.

18 The other thing was the on-line training, do
19 we have any idea at all about what kind of on-line
20 training penetration we have had with the cards?

21 DR. PAYNE: In construction, the ten hour
22 numbers have kind of leveled off over the last couple

1 of years, but that is probably due more to kind of the
2 down turn in construction.

3 We have seen an increase in the 30 hour in
4 construction.

5 MR. PRATT: Supervisors have more time now.

6 DR. PAYNE: In terms of on-line, on-line
7 construction is not a big number. The largest on-line
8 provider we have is a company called Career Safe. They
9 are basically providing the ten hour in general
10 industry and construction to public schools.

11 MR. PRATT: The preference is still face to
12 face.

13 DR. PAYNE: It appears to be face to face.
14 Construction workers seem to want to go on line when
15 somebody says to them if you can get a ten hour card
16 today or tomorrow, you can start work. They become
17 kind of desperate looking for a way to get the card
18 quickly.

19 CHAIRMAN STAFFORD: Kristi?

20 MS. BARBER: I would just like to say that
21 coming from my area of the nation, which is South
22 Dakota, the on-line training is invaluable to us.

1 Trainers are few and far between in my area. The
2 closest OTI training center is in Denver, which is
3 about 350 miles away from us.

4 The 10 and 30 hour classes on-line for
5 employees is very valuable, and we are just getting to
6 the point now where in our state, employers and owners
7 are requiring their employees and subcontractor
8 employees to have the training before they get on-site.

9 We are a little bit behind the times, but we
10 are getting there.

11 I can see the on-line training still having a
12 lot of value in areas such as mine.

13 Another question is of the 250 training audits
14 that you performed last year, what was the outcome?
15 Was it what you were expecting?

16 DR. PAYNE: The majority of them, the trainers
17 who went out and did the audits thought the average
18 trainers were doing an acceptable job of presenting the
19 content to the learners in a way that they could learn
20 it.

21 As we discussed yesterday, there was probably
22 a great deal of discussion around the two hour intro

1 with a lot of the trainers.

2 The issues that came up, very few were quality
3 issues, they were more process issues, in terms of some
4 trainers not covering the full ten hours as are the
5 requirements.

6 It wasn't the quality of what they covered, it
7 was the amount of time they kept the people, and some
8 misunderstanding with some of the trainers on what they
9 thought they could do and what they were supposed to do
10 according to the requirements.

11 That has been a perpetual issue as long as
12 this program has been around in terms of the trainers
13 really understanding the reporting and recordkeeping
14 requirements of the program.

15 MS. BARBER: Thank you.

16 CHAIRMAN STAFFORD: Any other questions or
17 comments? Tish?

18 MS. DAVIS: I just want to go on record to
19 underscore the importance of training. We can talk
20 about it. I think we all recognize the importance of
21 training. It's important to say that.

22 I can tell you that in Massachusetts we

1 interview injured workers, focusing on kids under 18,
2 and 50 percent of those injured say they had no health
3 and safety training. It is really important.

4 Several things that we have done, we do issue
5 the OSHA 10 cards, and we were successful in getting
6 required health and safety training, not ten hours
7 because it wouldn't work in this context, but in our
8 youth summer job programs.

9 That is something I would really like to see
10 more of, any workforce development program include some
11 kind of mandatory health and safety training.

12 The workforce development folks who get the
13 contracts for the summer jobs program have to provide
14 health and safety orientation.

15 CHAIRMAN STAFFORD: Chuck?

16 MR. STRIBLING: Just to say one thing about
17 the on-line component of the training, something to
18 keep in mind is a generation that has grown up on-line
19 is coming into the workforce. They know on-line.

20 I really think the on-line component will
21 continue to grow. I'm not saying good or bad. I just
22 think that's the way things are going.

1 should be designed around objectives. If you're
2 teaching the objectives, there is probably not going to
3 be a huge difference in learning outcome.

4 Some of us may be more visual learners. Some
5 of us may be more tactile learners. We might fare a
6 little better in our preferred learning style. We all
7 adapt.

8 Most of us go through a public school system.

9 We are not asked when we go in there what is your
10 preferred learning style, how would you like to learn.

11 We are told to sit down, shut up, and pay attention.

12 We learn to adapt and while we may have a
13 preferred way we would like to learn, we can learn by
14 different modalities, so people can learn from a lot of
15 different modes.

16 As Chuck said, the people coming in,
17 particularly the people we are seeing coming into OSHA,
18 want more of on-line training. They don't really want
19 to come to Chicago for a week. They would rather stay
20 home and do the training on-line.

21 MR. STRIBLING: They're bored sitting in a
22 class.

1 DR. PAYNE: Some people don't want to go
2 on-line, they want to come to Chicago. We are seeing a
3 transition. It's putting pressure on us to develop
4 more on-line training as components of our courses.

5 CHAIRMAN STAFFORD: Walter?

6 MR. JONES: I guess I'm the person that would
7 rather go to Chicago. I want to follow up on this idea
8 that if the training is delivered and it's the same,
9 whether it's on-line or not, what about what appears to
10 be the big concern, the fraud and fear of fraud
11 on-line, in terms of incidence or percentages, what is
12 your feeling or do you know exact numbers?

13 DR. PAYNE: Sarah probably knows this better
14 than me. If somebody is really dead set to commit
15 fraud, they're going to do it. You're not going to
16 stop them. That even includes the face to face class.

17 Not all instructors ask for a photo i.d.

18 If I go into a class and sign in as Walter
19 Smith, take the class, they issue me a card as Walter
20 Smith. I just go to Walter and hand him the card.

21 It can happen in face to face training. If
22 somebody is dead set to do that, they can do it. I

1 don't think we are going to stop all of that.

2 The kinds of fraud we have been most
3 interested in is the trainers who are just outright
4 selling cards for cash.

5 We did a lot of work in the State of New York
6 where these articles appeared because they had
7 requirements both in the state and city for workers to
8 work on certain municipal construction projects to have
9 the card.

10 The New York City Inspector General had been
11 involved in this. He called us because he wanted to go
12 through the ten hour course. He wanted to know what it
13 was about.

14 There is a trainer's website where a lot of
15 the outreach trainers register, and they list the
16 training, where they are going to do it, the dates and
17 those kinds of things.

18 We referred him to the site. He contacted a
19 trainer, arranged to take the training on a Saturday
20 morning. When he showed up at the address, it was a
21 vacant lot. The guy was there. The Inspector General
22 handed him \$100. The guy handed the Inspector General

1 a card.

2 The Inspector General went back the next
3 Monday and had three of his people register for the
4 next course with this guy, and they wired them and
5 video taped the guy, and the guy is now in jail.

6 That's the kind of fraud we think we can have
7 an impact with in the program. On-line, the issue
8 is -- I don't think people think they are committing
9 fraud when I come home from work, I'm tired, I register
10 for this class and I drag my teenage son over who is a
11 heck of a lot more computer literate than I am, and say
12 finish this for me. I don't think people think that's
13 fraud but it is.

14 The requirement is that the person who
15 registers for the course is required to take the
16 course.

17 We are going to have to be very specific in
18 the up front information that we provide people who
19 register for these courses and take them.

20 That is why we want to go to some form of
21 random user verification so people who are doing this
22 and probably not thinking they are de-frauding the

1 system, but they are doing this, can get stopped and
2 straightened out and go ahead and complete it.

3 This isn't us trying to increase the number of
4 people who go to jail. We just want to convince people
5 this is the way it is supposed to be done and you're
6 not supposed to have other people do the training for
7 you.

8 MR. JONES: Makes sense.

9 CHAIRMAN STAFFORD: Any other questions or
10 comments?

11 (No response.)

12 CHAIRMAN STAFFORD: Dr. Payne, thank you very
13 much for coming. We will hear from our training
14 outreach work group later, but I am going to say we
15 will be recommending to the Secretary per our
16 discussion yesterday that OSHA do away with the two
17 hour requirement for the intro section.

18 I think when we have this discussion amongst
19 the work group, we may add a recommendation that we do
20 an assessment of what the program looks like and start
21 with a clean slate maybe at some point and build what
22 we would like to see as an industry on how the program

1 would work, now that we are into it.

2 Thank you very much, Dr. Payne.

3 DR. PAYNE: Thank you.

4 (Applause.)

5 CHAIRMAN STAFFORD: We will go ahead and take
6 a break.

7 (A brief recess was taken.)

8 CHAIRMAN STAFFORD: Next on our agenda is Dr.
9 Christine Branche, who is Principal Associate Director,
10 NIOSH. Christine, thank you very much for being here.
11 The floor is yours.

12 NIOSH UPDATE

13 DR. BRANCHE: Good morning. I do wear more
14 than one hat. I am the Principal Associate Director of
15 the Institute and have the pleasure of being the
16 Director of our Office of Construction Safety and
17 Health, which will be two years old next month, and we
18 have had quite a productive time.

19 I am going to divide my time with my
20 colleague, Matt. We will be talking about some
21 developments in the Institute overall, just a few
22 things, as well as our office, give you a few reminders

1 of what our office does, talk a little bit more than my
2 colleague, Jim Maddux, did about the falls prevention
3 campaign, and talk about some efforts we have been
4 doing on our 15 goals for our sector.

5 Matt will cover the nail gun developments in a
6 little more detail than what Jim Maddux covered. We
7 want to share with you some of the research that is
8 going on that is relevant and of interest to those of
9 you here, and talk about some developments that are
10 underway in our efforts with green construction, our
11 assessment of green construction.

12 As far as NIOSH-wide, we are certainly anxious
13 to know what our budget is going to be, as are our
14 colleagues at OSHA. We have no information on that.

15 You have heard me refer to Ms. Pietra Check.
16 She was instrumental in helping us get a lot of
17 information done in our first couple of years here as
18 an office in the Institute.

19 It was through her sheer talent and
20 brilliance, we have been able to get quite a bit done
21 with the products you are familiar with, not only with
22 the nail gun guide, she worked quite a bit with Matt

1 Gillen, but she also was quite instrumental in our
2 getting the falls prevention campaign underway.

3 I mention her because she's been squirreled
4 away. She has been promoted. She is now the Deputy
5 Director of our new Office of Agriculture, Forestry and
6 Fishing at the Institute.

7 NIOSH, we now have three offices that deal
8 with the three largest problems in worker safety and
9 health, mining, construction, and ag, forestry and
10 fishing.

11 I'm giving you two pieces of information. (a)
12 we have established this third office dealing with this
13 third high risk problem and Ms. Check is now the Deputy
14 Director of that new office.

15 As a reminder, our mission in our construction
16 program overall at NIOSH is to deal with conducting
17 research, gathering information, and then translating
18 as much as we can into products, programs, and
19 solutions and services for the construction trades and
20 for workers and their employers in the construction
21 trades.

22 Organizationally, the way we have our

1 activities organized in our construction program is we
2 have intramural research, and again, Matt will share
3 with you in a few moments some of the current research
4 that is going on, and then to the far right of the
5 slide, we do support researchers outside of our
6 organization and outside of the Government to conduct
7 research, including in construction.

8 We fund the National Construction Center and
9 CPWR is funded by NIOSH to function in that capacity.
10 Actually, CPWR has successfully competed for that since
11 the funding was made available first in 1994.

12 As far as our own office is concerned, I think
13 we have been doing well enough that we now have a third
14 person, Lt. Commander Elizabeth Garza, who is with me
15 this morning. Liz? The person in uniform. She is
16 with the U.S. Public Health Service, Commission Corps.

17 Liz joined us formally in September. She was
18 working with us on a detail beginning in May. We
19 apparently impressed her enough that she wanted to stay
20 with us. We are very happy to have her aboard.

21 Turning to the falls prevention campaign, Jim
22 mentioned to you before our evidence based campaign

1 that we launched together on workers Memorial Day.
2 Secretary Solis formally launched the campaign, and we
3 did have a two year span in mind.

4 Jim Maddux also mentioned a re-launch is
5 planned for the Spring of 2013, inaugurating our second
6 year in the campaign. Our focus, if you don't know or
7 if you have been living under a rock and you have no
8 idea what's going on with this campaign, it's focused
9 on falls from roofs, scaffolds and ladders.

10 The primary audience of interest is
11 residential construction, contractors, site
12 supervisors, foremen, and then the tertiary audience of
13 interest is the workers themselves.

14 Stopconstructionfalls.com is the website. I
15 will give you some more information about the web
16 addresses in just a moment.

17 This has been an effort that has been launched
18 not only by OSHA in partnership with NIOSH but also
19 with our national occupational research agenda for the
20 Construction Sector Council, so those members have been
21 instrumental in not only piecing through it and dealing
22 with the information that helped us shape the campaign

1 but also in helping us get the information out.

2 We really appreciate those of you here on
3 ACCSH as well as those in the audience who have helped
4 to get that information out as well. It has been a
5 joint effort and we require still your hands in
6 continuing to have this campaign be successful.

7 When the campaign was launched, our colleagues
8 at CPWR also made available an effort they had
9 underway, which is this fatalities map.

10 When you go to the website,
11 stopconstructionfalls.com, which is hosted by CPWR,
12 then the map from 2011 is also available to you.

13 What they did was collect information during
14 the course of 2011 from new sources, people making them
15 aware of the information, but they were trying to get
16 information in real time.

17 What would be another interesting facet is now
18 that BLS has published their preliminary data, to
19 compare the effort that CPWR had underway with what is
20 the official tally from BLS.

21 It is certainly nice to be able to get a
22 window into the fatalities in construction across the

1 nation much earlier than what we were able to get from
2 BLS.

3 Again, this doesn't replace what BLS does. It
4 does give us a sense of the severity of the issues in
5 construction as it concerns fatalities. We really
6 appreciate the effort they had underway.

7 I made reference to the web addresses. There
8 are three, three ways by which you can get information
9 about the campaign or three sources of information for
10 the campaign.

11 We are indebted to CPWR for hosting the main
12 website for the campaign. Again that is
13 stopconstructionfalls.com. A lot of supporting
14 information, training announcements, press information,
15 are all captured at that website.

16 There is also a Facebook page which is
17 maintained by a colleague at the University of
18 Washington at St. Louis, Vicki Kaskutas.

19 The campaign posters, fact sheets, and
20 anything that is "Free," is from OSHA, and their
21 website is at the OSHA.gov/stopfalls website.

22 Scientific information, background information

1 about falls in general, some research that we are
2 doing, as well as a science blog that was launched in
3 tandem with the campaign are available through NIOSH.

4 Also, our colleagues at the Fatality
5 Assessment and Control Evaluation Program are part of
6 NIOSH, our FACE program is probably how you best know
7 it. There are data about some FACE investigations that
8 are relevant to falls from construction, fatal falls
9 from construction, that we always think are of
10 interest, and we encourage you to go there as well.

11 It is still possible to join the campaign, and
12 that could happen either today by raising your hand or
13 sending an e-mail to Falls@cpwr.com.

14 There are some interesting outcomes I want to
15 share with you. I realize Dr. Michaels will talk about
16 this or is likely to talk about this in his remarks
17 this afternoon, so I do want to give you some
18 information that is not going to be part of what he
19 talks about later on today.

20 First, in taking a step back and understanding
21 that this has been a coordinated effort, I shared with
22 you the coordinated websites and we do swap out

1 information so that where it is appropriate to
2 duplicate information across the three web sources, we
3 do.

4 Again, it is also important to understand
5 where there are some differences. If you want to
6 access the free information, as Jim Maddux mentioned
7 this morning, you do need to go through OSHA to get the
8 information. That is not to say we don't have a stash
9 of them at NIOSH, it's for the volumes that most of the
10 people are requesting, OSHA is your best bet.

11 We know from our review of the way we have
12 gotten information out there, over 300,000 people have
13 been touched at least through OSHA by the campaign.

14 We know also for NIOSH, our web visits alone
15 are 1.5 million. That is for NIOSH overall. We know
16 CDC is the second most popular Federal Government
17 sites. Only the U.S. Postal Service with their request
18 for stamps has more visits to web information than CDC.

19 When we tried to spotlight this particular
20 topic, and we will again in 2013, we know that it is a
21 little different, a little oblique to us, but we know
22 we are touching people with our information in ways

1 that are a little difficult to assess.

2 From OSHA, as our colleagues work with them
3 and being able to really understand what we mean by
4 touching and assessing exactly how many people are
5 visiting the website and being able to take visits from
6 views, we know we have at least 300,000 people who have
7 been touched through the OSHA regional activities.

8 From my last assessment, it was 39
9 organizations. Where are we now? 39 organizations
10 have joined the campaign formally. That doesn't mean
11 that people even if they haven't formally joined, they
12 aren't participating and being available, people who
13 are helping disseminate information.

14 The other thing I want to make sure we
15 appropriately appreciate is the fact that we have
16 created by virtue of this campaign an activity,
17 movement, if you will, where we have labor, state and
18 local government, and then various organizations and
19 professional organizations and employers who supported
20 the campaign.

21 I think that is not an easy task. All of us
22 who have a hand in construction, we know that doesn't

1 happen often and we should celebrate it when it does.

2 This campaign has been such an effort.

3 Just to give you an example of some of the
4 outreach that we have solicited, we have encouraged
5 people to talk about the campaign. For example, the
6 National Safety Council has done so.

7 We know Drs. David Michaels and John Howard
8 were each featured speakers at the National Safety
9 Council meeting in October of this year. Both of them
10 took the time to talk about the campaign, again giving
11 visibility at the levels they are, and we really
12 appreciate the fact that even as we go into the dawn of
13 the winter, this is a campaign still having some
14 resonance with people and we are going to use, as Jim
15 Maddux mentioned earlier, some of the winter months to
16 be able to tweak, re-tool and prepare for re-launch in
17 the spring.

18 A quote to give you from an ASSE member is
19 from Ron Sokol, where he says "Planning ahead,
20 identifying risks, providing training along with the
21 right equipment will help prevent construction worker
22 falls.

1 The information from the new falls prevention
2 campaign will be invaluable. We urge everyone to share
3 it with their company, friends, co-workers,
4 communities, schools and more. We are all part of the
5 solution to help prevent falls."

6 I think this quote is one that really captures
7 what we really want people to walk away with when they
8 see the campaign and when they review the materials.

9 Another outcome is the campaign has already
10 won an award from a public relations organization here
11 in the National Capital area. The campaign won the
12 2012 TOTE Award. It was given here in Washington by
13 the Public Relations Society of America.

14 My colleague, Chris Trahan from CPWR, tells me
15 there are now 48 partners with the campaign.

16 We have no upper limit for the number of
17 people who can officially join the campaign.

18 We know people have featured the campaign in
19 their newsletters, on their websites. This is just a
20 quick smattering of five, and we encourage, as we begin
21 to re-launch for the Spring, if people have not had a
22 chance to feature the campaign in any of their

1 newsletters or information they disseminate to their
2 members, this is an opportunity to do so.

3 For people who have been so kind as to feature
4 the campaign, there is another opportunity come Spring.

5 Lastly, I am going to talk about that we have
6 15 goals through our national occupational research
7 agenda, 15 goals as it concerns construction research
8 in the United States.

9 Again, this is not research just for NIOSH.
10 It is research for the nation as it concerns
11 construction.

12 Beginning last year, we took a look at those
13 15 goals and looked at our progress. We expect to be
14 asked formally how we are progressing in our 15 goals.

15 What we did in our mid-course review was to
16 categorize our progress with the 15 goals with respect
17 to whether or not we were ready for impact.

18 We have six of the goals that we call ready
19 for impact, which means we have sufficient solutions
20 and know what contractors need to do for impact.

21 Falls, silica, disparities, struck by,
22 culture, and prevention through design are the six

1 goals that we believe we are in a place where we are
2 ready for impact.

3 The seven developmental goals are ones for
4 which we have solutions but we know we are not quite
5 ready for impact.

6 I'm not going to read the full list, but
7 welding fumes, musculoskeletal disorders and disease,
8 and noise are some of the seven goals that fall into
9 that category.

10 Our last category, which is exploratory,
11 exploratory means it's an important issue, but we are
12 still defining problems and solutions.

13 Two goals fall in that category. The industry
14 organization issues as well as engaging the media.

15 This assessment has allowed us to do two
16 things, not only get a sense of where we are with the
17 15, but also to make certain that we are not
18 inappropriately or just by sheer negligence shoving any
19 goal to the side. All the goals are relevant. We
20 believe all the goals still have merit, all 15 are
21 still important and compelling problems in
22 construction.

1 As far as our resources, not only at NIOSH,
2 but across the various facets of construction in this
3 country, people who are doing research, it gives us a
4 sense of being able to know how we are going to move
5 forward aggressively and pointing our resources in
6 places where we think it is going to make a difference.

7 Are there any questions or comments? I'm
8 about to shift to my colleague.

9 MR. JONES: I have a question on the falls
10 campaign. I think it has been a fantastic job and now
11 you're going to do your second year. I know the
12 concern is how do we expand our effort and drive down
13 to reach every pick-up truck in construction. I don't
14 know how possible that actually is.

15 Is there any thought of turning the campaign
16 into a public health campaign, more so than just an
17 occupational or construction falls campaign?

18 If we want to reach like every pick-up truck,
19 we are going to try to reach the kids of these guys who
20 drive the trucks, turn this into a campaign like going
21 to the schools and begin to look at change in behavior
22 besides just touching everybody, but actually trying to

1 reach out to turn it into a campaign so that when we
2 look at the viewers of this falls campaign, we will
3 look at it hopefully as we look at recycling and other
4 efforts, where behaviors change as a result of
5 campaigns.

6 How we could take this falls campaign out of
7 the silo of occupational safety and health, which is
8 pretty small, and move it to the public health arena,
9 reaching out to public health departments or schools,
10 social society about what it means.

11 Is there any thought about that?

12 DR. BRANCHE: Yes, quite a bit of thought.
13 First of all, you mentioned bridging with public health
14 and learning the ways by which -- replicating the ways
15 they have been effective in trying to drive important
16 public health information into the hands of the people
17 who need it, regardless of their age, being inventive
18 about getting information out, even if it is through a
19 back door mechanism, to the people that need it.

20 I am glad Tish is here. The Massachusetts
21 Department of Public Health, I think, has done some
22 things that are worth looking at for a broader

1 application.

2 We know Tish has been successful in even
3 reaching transit authorities in the Boston metropolitan
4 area.

5 That is something that we are trying to
6 replicate and we are working with OSHA to do that.

7 Some other ideas that have come up, we just
8 had our Sector Council meeting earlier in November, and
9 there were some ideas expressed there.

10 Some of the ideas that came out of that and
11 just before was trying to get to the places where
12 contractors have to get their licenses or get permits
13 to do their work, making the information available to
14 those offices.

15 We know for Latino outreach for other things
16 that are going on in construction, the projects that we
17 are aware of, and there are some in New Jersey, some in
18 the Chicago metropolitan area, some on the West Coast
19 in California, just to name a few, where they have
20 gotten information, important information that speaks
21 to behavior change through churches, faith based
22 organizations, as well as schools.

1 Looking at those mechanisms for a broader
2 effort.

3 I do want Tish to make a comment, but the
4 other thing I would want to say is we are developing a
5 proposal for approaching big box retailers. That is
6 never an easy nut to crack. I think it is important.

7 Over and over again, we are hearing people say
8 that having the campaign information available at the
9 contractor's desk for a big box retailer would be very
10 important. We agree it would be.

11 We are working on a proposal now for reaching
12 out to big box retailers.

13 MR. JONES: Thanks.

14 DR. BRANCHE: Tish, you have done some
15 interesting things in Massachusetts.

16 MS. DAVIS: A couple of things. We have a
17 safety contest poster every year, and our youth contest
18 poster goes up in June, which is pretty exciting, in
19 Boston and Springfield.

20 For this, we have contacted every transit
21 authority in the state. We have five or six of them
22 agreeing to post the posters in the transit systems.

1 We want to combine this with some OSHA
2 outreach that is happening at the same time in the
3 Springfield area, where one of our big transit systems
4 is willing to do bus routes.

5 That still could be occupational health. I do
6 think -- NIOSH funds 23 state health departments to do
7 occupational health work. We have our annual meeting
8 next week in Florida. We really should put this on the
9 agenda. I think we can reach out to the injury
10 prevention network, the state highway prevention
11 network.

12 There are a lot of other injury prevention
13 networks. At least from my perspective in
14 Massachusetts, we could do a better job.

15 If you share your slides with me, Christine,
16 I'll bring that.

17 One thing about the big box, I wanted to ask
18 if you had any success because I had a picture sent to
19 me last week from my daughter that the Home Depot in
20 L.A. doesn't have a fall prevention poster but has one
21 posted with the fall prevention display.

22 We have tried to reach the stores locally.

1 DR. BRANCHE: We are trying to work with
2 headquarters.

3 MS. DAVIS: This was sent to me. I couldn't
4 believe they had actually done something. I was
5 wondering if you have had success with Home Depot.

6 DR. BRANCHE: Not yet. Often we hear that
7 people are able to make a purchase regionally for a
8 particular city. All those efforts should continue.
9 We are trying to get to the headquarters of at least
10 one of the big box retailers, and that is sort of a
11 delicate balance because my experience is you can't
12 approach all three of them at the same time. You have
13 to approach them iteratively.

14 Anything that is happening in a city or region
15 and they are successful in getting the materials to be
16 displayed in that particular big box retailer, I say go
17 for it.

18 If there is anything that can be shared about
19 how they were successful in doing it, even if there is
20 one retailer in one city and there is a way to do it in
21 more than one city for that particular chain, I think
22 that should be explored.

1 One of the things that has been critical for
2 this campaign is no one entity is doing it alone. We
3 really all have to work together to make this
4 successful, to keep it successful.

5 CHAIRMAN STAFFORD: Any other questions or
6 comments on the campaign?

7 (No response.)

8 CHAIRMAN STAFFORD: I would just like to add
9 one of the components is the CPWR is doing an
10 evaluation of the campaign to try to see if we can get
11 a handle on the penetration of impact, and depending on
12 the outcome of that, it may drive what we can do in the
13 future with this.

14 As we talked about in our work group
15 yesterday, not on this issue, but we are trying to
16 reach a very difficult industry to reach, and we are
17 talking about small employers primarily in the
18 residential sectors.

19 It is something that we have to continue to
20 try to drive but we also have to understand the best
21 ways to do that. Hopefully, this evaluation will shed
22 some light on that.

1 MS. DAVIS: There is one thing I forgot to
2 mention. We have a stop falls and prevention work
3 group in the state. One of the things we have talked
4 about is some information for home owners. We have
5 some fact sheets for home owners in choosing
6 contractors, how to choose a good contractor.

7 It places some emphasis on both the Workers'
8 Comp coverage and safety.

9 DR. BRANCHE: I used to work with the
10 non-occupational injury group at CDC before coming over
11 to NIOSH. Exploring again with my colleagues there how
12 we might work together in getting some additional feed
13 to the campaign makes a lot of sense. Also, we just
14 got way too busy. You are looking at pretty much my
15 staff.

16 Working with the U.S. Consumer Products Safety
17 Commission, not only for this but also for the nail gun
18 guide, and getting some additional avenues for
19 disseminating the information. We are certainly open
20 to that as well.

21 Without further ado, I'm going to turn to my
22 colleague, Matt Gillen.

1 MR. GILLEN: Thanks. Here is a little more
2 detail about the nail gun developments. We did release
3 the Spanish language version in October 2012. You
4 heard Jim Maddux describe what we call the "active
5 dissemination," where we had Christine and Jim push it
6 out there with e-mails to major groups.

7 We had an original list of folks from
8 residential construction that we felt was useful. We
9 did some research on what are some Hispanic
10 construction groups. There are different contractor
11 associations at the state level, at the regional level.

12 We added some medical folks as well. We also
13 did the web posting, tweets, Quick-Takes as well.

14 I think one answer to the question that Walter
15 brought up earlier about the popularity of this, we
16 have to push it out in addition to it being a good
17 publication. We are trying to learn how we reach these
18 audiences.

19 We have been pretty aggressive trying to get
20 it out there. We think that helps, too.

21 For example, in addition to groups like the
22 National Hispanic Construction Association, we looked

1 at some of the contact information from OSHA's Hispanic
2 Summit. Here are some examples of other groups, many
3 of them are grassroots groups, local and state level,
4 that work with Hispanic workers, that we sent the
5 Hispanic version to.

6 We thought about this because these are the
7 folks that see some of the injured workers if they do
8 go to the emergency room or one of the urgent care
9 clinics that you see in a lot of strip malls.

10 There is an actual Urgent Care Association of
11 America. Also, American Association of Hand Surgery,
12 et cetera.

13 We felt the materials could help inform them
14 even when they take a history of the worker, what the
15 injury is, perhaps ask better questions about what
16 happened. It gives them a source of information they
17 can give to the worker or give to the employer once
18 they have had an injury, to give them some guidance
19 about gun safety. We thought that was helpful.

20 Just a little bit about the translation
21 process. We did just get a regular CDC translation.
22 We have a service that does that. We put together a

1 team. We have included Danezza Quintero, Edgar Reyes
2 and Liz Garza from NIOSH, and we reached out to Javier
3 Aruodas with the Hispanic Construction Association of
4 Texas.

5 They have looked at the translation and helped
6 us with the construction terminology and worker
7 terminology to make sure it was appropriate. We used
8 that final version for the PDF.

9 One thing I did want to let ACCSH know is we
10 only made one change to the nail gun guide, and we made
11 this in the Spanish language version and we went back
12 and made it in the English version.

13 I believe I was at the May meeting where it
14 might have been a motion or recommendation that the
15 Acknowledgement section of the guidance, which was
16 pretty short, be expanded to more fully address the
17 roles of the other folks that have participated.

18 Here's the text as it now reads in both the
19 English version and the Spanish language version.

20 "NIOSH and OSHA thank the following for their
21 support in developing this guidance."

22 The first one listed is "Members of OSHA's

1 Advisory Committee for Construction Safety and Health,
2 who recommended that the guidance be developed."

3 We also recognized Dr. Hester Lipscomb and her
4 colleagues for her research findings used in the
5 report. Tom Trauger and Winchester Homes for providing
6 access for the photo's, and Javier Aruodas from the
7 Hispanic Contractors Association for helping us with
8 the Spanish language version.

9 We know have a more complete Acknowledgement
10 section in both versions.

11 MR. JONES: I'll let Liz know.

12 MR. GILLEN: We did send it to Liz.

13 A few other developments. You heard Dr.
14 Branche describe that we are doing a small follow up
15 survey. We are working on that. Liz is working on
16 that with us, to ask about further dissemination, how
17 people used it, what they thought about the document,
18 any ideas they have for lessons learned about how to
19 get this kind of document out.

20 In addition, NIOSH is using the same content
21 but we are coming up with an awareness piece for
22 workers. It has a lot more illustrations, things of

1 that sort. We should be hearing more about that in
2 2013 when that comes out.

3 We want to keep a spotlight on it to really
4 try to make an impact and make those injuries go down.

5 In addition, the National Construction Center
6 did develop a nice hazard alert card which you can see
7 there as well.

8 That is it for the nail guns. What we thought
9 we would do next is just describe a portion of the
10 intramural projects that we have underway, some of the
11 ones that might have results coming out fairly soon,
12 for example, and in future meetings, we could describe
13 extramural research, we could do more of this if you
14 find it interesting.

15 Here's an example of a project. Studies show
16 that 20 to 30 percent of residential construction
17 worker related injuries are related to musculoskeletal
18 disorders, and they really do account for a
19 disproportionate share of total injury costs.

20 Jim Albers is working with several partners,
21 Assurance, Iowa State. They have developed these two
22 page tip sheets for simple solutions for home building

1 workers. Each describes a specific problem, the
2 solution. How the solution works, employer/worker
3 benefit, and approximate cost.

4 A lot of drawings. Very user friendly. They
5 want to have simultaneous release in English and
6 Spanish. We think that will be a very helpful
7 publication for the residential construction industry.

8 Here's an example of an interesting project.
9 Chris Pan is the researcher and he is partnering with
10 FRACO and Klimer, they are the two largest
11 manufacturers of mast scaffold equipment. FRACO is
12 actually loaning Chris a mast scaffold which is being
13 set up in the Pittsburgh NIOSH Lab.

14 Other partners include CPWR, ANSI, OSHA as
15 well.

16 They are looking at the scaffold safety
17 margins, worker task and environment interactions.

18 This is an interesting picture because it's an
19 L shaped mast scaffold but just one mast. You can see
20 how it really needs to have careful bracing and counter
21 weights for it to be stable to do that work.

22 You can also see in the middle -- it's hard to

1 see -- there is an orange crane. It's one of those
2 cranes that Jim Maddux referred to earlier. That crane
3 is used to hoist up a dumpster for loading the old
4 removed brick.

5 These are great tools. There are interesting
6 stability issues that the manufacturers are interested
7 in exploring in more detail with our researchers. They
8 are going to be working on this this year.

9 I think it would be of interest to OSHA and
10 construction stakeholders.

11 One issue is the optimal places to tie off and
12 how that affects stability.

13 Here's another one, a ladder safety
14 application for Smart phones. Peter Simeonov developed
15 a Smart phone app that allows the user to place your
16 phone against the ladder and it gives you feedback as
17 to whether the angle is appropriate.

18 There is surprising interest in the potential
19 ladder slippage when it's not at the proper angle.
20 When they looked at the data there, it really does make
21 quite a difference.

22 When they compared using this method with

1 methods of trying to use the chart on the ladder or
2 other methods, they found this is not only quicker but
3 more accurate. They developed this app. It also
4 includes other ladder information.

5 You can see the slide on the right, it will
6 have information about selection, inspecting ladders,
7 proper use, and accessories, things that go on the feet
8 of a ladder that are available to help make them more
9 stable.

10 This has gone through its final approval. We
11 are not quite sure when it will come out. We will let
12 people know. This is really the first app, I think,
13 that NIOSH has had coming out. There is a lot of
14 interest.

15 DR. BRANCHE: I just wanted to add, I have
16 mentioned the app to other audiences that included many
17 of you, and it turns out there was another level of
18 review. We expected the app would have come out by
19 now. This additional level of review was unexpected
20 but critical.

21 This is the first app that the Institute has
22 ever put out. We know so many of you and the

1 organizations you represent or your colleagues are
2 interested in the app.

3 It is going to be great fanfare, and we will
4 let everyone know the app is available once it is
5 available.

6 MS. DAVIS: Is there a chance it will be
7 available when we kick off the fall campaign in the
8 Spring? That would be great.

9 DR. BRANCHE: It would be great but that's not
10 a time table we control. Ask the attorneys.

11 MR. ERICKSON: Just a comment regarding the
12 phone app. As a boilermaker representing boilermakers,
13 you are not allowed -- the majority of your contractors
14 don't allow you to have the cell phone in the work
15 area. It's pretty common. Of course, you keep it in
16 your lunch box or whatever.

17 DR. BRANCHE: Like tablet computers, would
18 that be the same?

19 MR. ERICKSON: A lot of times it's hard enough
20 just to get a radio.

21 DR. BRANCHE: The reason I asked, I realize a
22 phone could be a distracting device, but a tablet

1 computer may have instructions or manuals. We have
2 already been asked about whether or not the app could
3 be loaded onto a tablet computer, and they are looking
4 at that as well.

5 That's a good point about the fact there are
6 workers for whom it would have no use at all because
7 of restrictions.

8 MR. MARRERO: With the tablets, you only see
9 the top foremen or superintendents standing around with
10 a table or iPad. Like Roger said, it's restricted on a
11 lot of job sites. A lot of safety programs states you
12 are not allowed to use your phone during work hours,
13 only during breaks and so forth.

14 DR. BRANCHE: As we talk about safety and
15 health, as we talk about the fact -- I know this is an
16 issue OSHA has dealt with, but in NIOSH, we don't have
17 the capital to be able to make hard copies available of
18 training materials or the things that would be
19 appropriate to think about for training. We don't have
20 the money to support it.

21 Everything we do is put out through our
22 website. Increasingly, as I talk to various members

1 now or previously of ACCSH but other folks who do
2 safety and health training, they don't have the capital
3 to do anything other than electronic media.

4 It will be important just as we all have to
5 adapt, coming past the first decade of the 21st
6 Century, we are all going to have to re-think this.

7 MR. JONES: Yes.

8 MR. GILLEN: All right. Phones are both tools
9 and distractions.

10 MS. DAVIS: Absolutely.

11 MR. GILLEN: Here is a study, these steel
12 dowels provide load transfer across concrete, people
13 building highways or airport runways, they really
14 transfer the load across the pavement joints.

15 They drill pin holes and put these steel
16 dowels in there. When you do that, you can see the
17 picture on the left, it creates quite a bit of silica
18 dust. You can have exposures up to 20 times over the
19 NIOSH recommended exposure limits for silica.

20 Alan Echt and his team formed a partnership
21 with the two manufacturers of the equipment, Easy Drill
22 and Minick, and got others involved. They are looking

1 at this issue and what they are trying to do is explore
2 how to make local exhaust ventilation work well, having
3 that be on the equipment.

4 On the right, you can see there is the
5 equipment where it has been fitted up with local
6 exhaust ventilation. You can see there is not as much
7 dust there in the workers' breathing zone. They are
8 going to work with their partners to perfect this and
9 promote the use of the equipment with the dust controls
10 and get the word out, develop workplace solutions to
11 help get the word out.

12 That is an example of a product in the
13 pipeline.

14 Our engineers and researchers are really good
15 at helping people perfect and develop controls. If
16 people know of other tasks where you feel controls are
17 needed, there are gaps there, please let us know and we
18 will pass that information onto the researchers.

19 Here's one that is about noise control. The
20 purpose is to make it easier for contractors to find
21 out noise levels associated with tools, especially new
22 tools that they might buy. When it comes time to

1 purchase equipment or even rent equipment, they can
2 easily rent or buy quieter equipment.

3 Chuck Hayden and his team have taken a Buy
4 Quiet program originally developed by NASA and have
5 adapted it for construction contractors. They are
6 working with Messer Construction Company, which is a
7 firm in the Cincinnati area, to pilot the program.

8 The top slide shows an example of how people
9 can inventory their current equipment. The bottom
10 slide shows trying to make it easy to search for
11 different types of equipment and what noise level
12 information is out there for the different tools.

13 What they have done is gone out and taken
14 available information about noise levels throughout the
15 world and tried to put it into these tools.

16 There are other parts of the program that
17 includes policies, posters, return on investment
18 calculations, for example.

19 It should be really nice research for
20 contractors to use to give this whole buy quiet
21 approach a try.

22 That should be ready some time in 2013, for

1 example.

2 The last one I was going to talk about is the
3 FACE program, fatality assessment and control
4 evaluation project. I just want to make sure everybody
5 is aware of this project. It is really a terrific
6 project and program.

7 NIOSH does it and we have multiple state
8 partners. They investigate targeted fatalities,
9 different types. They put together reports that often
10 includes photo's.

11 The valuable thing about it is it includes
12 root cause information. That sometimes is the kind of
13 information they pull out from OSHA inspection data,
14 for example. They spend a lot of time describing that.

15 What they have been doing is working on how to
16 make this information more searchable. Believe it or
17 not, there is currently 715 FACE cases involving
18 construction.

19 There are new features they are going to add
20 to make it easy to search so you can search by code,
21 location, by industry, such as construction versus
22 energy production. You can search by cause, such as

1 confined spaces, falls, falls from residential,
2 commercial. You can search by population, such as
3 young workers, Hispanic workers.

4 We have this nice body of FACE cases and we
5 want people to be able to search them more easily to
6 use them.

7 They are really helpful for training and for
8 toolbox talks. Again, you can search the ones that are
9 relevant for a topic that is of interest to you.

10 We want people to know about these and use
11 them. Here are a couple of examples. California house
12 painter, falls through a roof opening. Another one
13 from California, a roofing supervisor dies when he
14 falls through a skylight.

15 They also include some that involve chemicals,
16 where they involve fatalities. Believe it or not, that
17 chart is hard to see, but it says "Maintenance worker
18 dies from methylene chloride while stripping a
19 baptismal font in a church." It was kind of a confined
20 area and the person was overcome with fumes.

21 We have heard in previous NIOSH meetings about
22 work done in Michigan, about dust. Here is a

1 Massachusetts alert and fatality involving the same
2 thing.

3 The partners are also beginning to develop
4 additional materials beyond the case files for people,
5 such as what they call digital story video's. You can
6 see one from California, "Preventing Falls in the Solar
7 Industry." It is really a nice video. It is really a
8 good training tool.

9 Again, we want people to know about them and
10 try out that FACE page, search and use the materials.

11 Another program we have that is really kind of
12 under utilized by construction stakeholders is our
13 health hazard evaluation program. Again, when we
14 talked about topics such as the ones we mentioned
15 yesterday, like RF or nano, those are topics for HHEs.

16 Nobody really totally understands the risks or might
17 not what exposures typically are for a task.

18 A health hazard evaluation can help you get at
19 that. This is an example of a recent one that was done
20 at a shipyard where they did a lot of heavy abrasive
21 blasting, and were interested in what the exposures
22 might be.

1 In this case, the exposures were so high that
2 the sample methods weren't able to withstand a harsh
3 abrasive gas, and the samples overloaded, and indicated
4 a need to develop perhaps improved methods for sampling
5 those really harsh environments.

6 There has been increasing interest in health
7 promotions, what NIOSH calls "total worker health." If
8 that is something that is interesting to you, you might
9 be interested in this study.

10 This report is on the web page that uses data
11 from the National Center for Health Statistics. A lot
12 of this is basic health information about the
13 percentage of construction workers who report a hearing
14 difficulty, about 15 percent.

15 A good example would be 49.5 percent of
16 construction workers didn't see a primary care health
17 provider in the last year. Construction was top for
18 that. The average for other industries was 30 percent
19 of workers who hadn't seen a primary care provider. It
20 gives you the percentage of smokers, the percentage
21 that didn't get a flu shot in the previous year, for
22 example.

1 We continue to use Twitter to reach
2 construction audiences that like to get information
3 that way. We are up to over 6,200 followers now. If
4 you do Twitter or know people that do, we are at NIOSH
5 Construct. It has been a pretty good experience and we
6 are glad we did it.

7 Some details as far as integrating safety and
8 health into green construction. Again, this is an area
9 that our Construction Sector Council selected to focus
10 on.

11 In NIOSH, we have had some really good
12 meetings with the U.S. Green Building Council. They
13 are the ones that had that LEED rating system,
14 leadership in energy and environmental design. We have
15 also been supporting research in partnership.

16 We have plans for next year to do additional
17 outreach, additional awareness materials, work on pilot
18 credits, work on guidance development.

19 A year ago, I think we gave an update about
20 green, but today, just to share a couple of things we
21 have been thinking about that seem to be useful, and
22 one is using this term "life cycle safety" to describe

1 what it is we are interested in. It isn't just
2 construction safety, it's life cycle safety.

3 Construction and maintenance workers play key
4 roles in the life cycle, and in life cycles, the green
5 folks think about the environmental impacts of
6 buildings, so that is how they are thinking.

7 It is not only the initial construction of the
8 building, it's operations of maintenance, renovation
9 that goes on that involves construction workers, things
10 such as replacing the roof over the life of the
11 building, and demolition, although somebody told me I
12 should change that word to "de-construction," because
13 there is more involved where they are taking the
14 building apart and reusing part of the building than
15 just demolishing the whole thing.

16 Again, this whole life cycle view has been an
17 important one.

18 I thought you would get a kick out of this.
19 This is a photo that we have used. It has been very
20 helpful in helping green construction folks get what we
21 are talking about.

22 This picture I actually took on the roof deck

1 of OSHA. It was a nice Spring day. I went up there
2 for some fresh air. I saw this worker kind of perched
3 on the edge doing his work. It could be a facility
4 worker, a contractor, servicing that rooftop equipment.

5 You can see there is no access, the worker has
6 to bring his own ladder. There is no power, he has an
7 extension cord there. There is no set back of the
8 equipment from the edge.

9 This is really right there on the edge, which
10 really creates a fall hazard for that worker. There is
11 no fall protection being used.

12 It helps people get how we design a roof is
13 really important, and the responsibilities for fall
14 safety.

15 They might be able to do it today, but if they
16 are distracted, something happens, you are really set
17 up for a fall, a bad fall there.

18 DR. BRANCHE: This photograph and the idea of
19 life cycle safety goes very well with our colleagues at
20 the U.S. Green Building Council, because so much of
21 their focus is on the new construction, making certain
22 the people who are going to reside in a building or

1 occupy a building, that is where most of their focus
2 is.

3 We have been trying to bring up to them the
4 notion of workers who have to maintain the building.
5 It was this photograph that I think really turned a lot
6 of people's minds to what we were talking about, really
7 drive home the message, that we know this particular
8 situation needs to be rectified.

9 MR. GILLEN: The whole idea of life cycle
10 safety benefits the owners, that this can improve
11 safety and health for the operations by the maintenance
12 workers. It could be a more cost effective operation
13 for maintenance, lower renovation costs.

14 For example, if the building has built in fall
15 prevention, you don't need to pay for temporary fall
16 prevention when you put on a new roof after 20 years,
17 for example. There could be lower renovation costs.

18 There was quite a bit of interest in having
19 improved facility operation efficiencies, what building
20 managers talk about. The total cost of ownership.

21 Most of the costs are when you build
22 something. These studies show that is really five to

1 ten percent of the cost and operating and maintaining
2 the building is as much as 80 percent of the cost of
3 the building over the life cycle of the building.

4 They have done surveys and shown that in
5 reducing the operating costs is the top reason for
6 people interested in green design. They are interested
7 in new types of features that are going to have lower
8 operating costs. It kind of fits within the kind of
9 thinking we are seeing among our green colleagues.

10 We do credit for having a vegetative roof or
11 green cool roof that is reflective, for example.
12 Energy production, you can get credit for having a roof
13 top solar, even wind installation.

14 It is a good safety issue. Falls are easy to
15 grasp. In addition, these fall hazards are amenable to
16 prevention by design. This is something an architect
17 or engineer can be thinking about, and there are
18 solutions on the market, from parapets to guard rail to
19 fall restraint systems.

20 We think it is a logical place to start and
21 make some real progress for integrating safety and
22 health into green construction.

1 For vegetative roofs, if you look at the
2 reference guide, it says they need to have semi-annual
3 inspections. People need to go up on the roof to
4 maintain the plants.

5 On the cool roof, they need to be cleaned to
6 keep them reflective.

7 There are built in activities, operations and
8 maintenance, life cycle activities related to these
9 green features that will put people up on the roof kind
10 of in harm's way. It helps us communicate these
11 issues.

12 The roofs have sort of gone to somewhere
13 nobody ever went to to sort of a hot amenity for
14 buildings. More and more people are trying to use the
15 roof, have public access to it, have a green roof
16 there, and also the new high efficiency equipment
17 perhaps needs a little more servicing as well.

18 It seems like the roof is a good place to
19 focus on.

20 What we would like to do is develop kind of a
21 safe roof design guide to describe the roof related
22 life cycle safety issues. That is what we are going to

1 do.

2 A lot of our activities are focused on
3 contractors. What we want to do with this is focus on
4 building owners, focus on architects, focus on
5 accredited professionals, get them to be thinking about
6 hey, we're the ones that design the roof, we need to
7 have a safe roof design guide. Insurance companies are
8 important, where the construction and architecture
9 people talk to each other a bit more.

10 We would like to come up with a nice 10 to 15
11 page publication that would help you. It's a good
12 product because we are all interested in falls, we have
13 the falls campaign going.

14 This is a product we can use to talk to owners
15 and architects and engineers. That is what we are
16 thinking.

17 Just to let you know there have been several
18 new publications that we can point to about integrating
19 safety and health into green construction.

20 Talking about safe design suggestions for
21 vegetative roofs, by Mike Bean. He has also done some
22 work in Singapore where they had a lot of green roofs,

1 vegetative roofs.

2 There has been other various studies. There
3 is another one about LEED credits, how they affect
4 construction worker safety and health.

5 There is more information that we can point to
6 in talking to your green colleagues about this. We are
7 going to continue to work on it. We wanted to share
8 just a couple of developments.

9 CHAIRMAN STAFFORD: Thank you. Bill?

10 MR. STRIBLING: I think I spoke with your
11 folks. We did a couple of major roof top solar
12 installations in New Jersey and the New York region.
13 Some of the problems that we ran into were pretty
14 extensive when it comes to fall protection.

15 Number one, the installation phase, and like
16 we talked yesterday about the towers and phone,
17 radiation and all, these roofs are generally leased to
18 a solar provider, selling the power back to the power
19 company, some of these solar panel projects that we did
20 were upwards of 27,000 pounds. Installation was quite
21 extensive.

22 One that comes to mind now was in Carteret,

1 New Jersey, White Rose Tea Company, their main
2 warehouse. We had the problem, which we tackled very
3 well as far as the fall protection on the installation,
4 but then you get to the maintenance phase, and other
5 people coming up on the roof that now have to walk
6 along the edge of the roof to get to an HVAC.

7 We are trying to tell the owner that's leasing
8 it, maybe you ought to put the rails up now while we're
9 doing it. No, because they are only leasing it.

10 The other problem you run into with the solar
11 installations, and there is a massive amount of them on
12 roofs now, some of them run anywhere from 400 to 600
13 volts DC in the big installations. This voltage, all
14 these cables, are hot, energized all the time, until
15 they get down to the bottom to the inverters and
16 transformers.

17 Those cables are laying on a roof in massive
18 bundles. Other workers are up there exposed to the
19 cable that obviously can become damaged.

20 We are talking about some significant voltage
21 here and they are hot all the time.

22 You folks are working on this. I would be

1 glad to help you in any way I can.

2 MR. GILLEN: I was just going to ask if we
3 could include you when we talk about the safe roof
4 design guide.

5 MR. STRIBLING: Now we are being called back.
6 This is pretty interesting. A lot of these roof top
7 units, a lot of these panels came from China. What we
8 are finding out a year, year and a half and two years
9 in now, three years in on some of them, four years on a
10 couple of COSTCOs we did, now some of the panels are
11 starting to fail.

12 They fail at all different locations, like on
13 a checker board. Now you have to disconnect those hot
14 circuits with qualified personnel, and get those units
15 that are now failing.

16 MR. GILLEN: Sounds like a life cycle safety
17 caution.

18 MR. STRIBLING: It is unbelievable. I could
19 go on for the rest of the day and tell you about all
20 the challenges we face. I'm not even getting into the
21 wind. We built the ones in Atlantic City.

22 The problem with the solar, the next problem

1 is they are energized all the time, and we had our
2 Commissioner of Fire in New Jersey put a nice program
3 together, and I will see if I can get it for you, on
4 fire fighters and roof top solar units that are
5 energized.

6 A fight fighter has to vent the roof. This
7 could be anywhere from a commercial to a residential
8 installation where all these panels are energized. If
9 they burn, it is toxic.

10 It's green, it's great, it's nice. It comes
11 with a whole host of hidden problems that you don't
12 know about.

13 I will be glad to help you. We have a project
14 manager back in the office, Dave Hagman, that's his
15 line. If there is anything he can do with his line of
16 maintaining these things and telling you about some of
17 the challenges we have, we would be glad to help you.

18 MR. GILLEN: Thank you.

19 AUDIENCE PARTICIPANT: Has there been any
20 actual interest in the LEED certification, to
21 incorporating safety standards into green
22 certification?

1 DR. BRANCHE: That is exactly the relationship
2 we are building with the U.S. Green Building Council
3 and others. It was for that very purpose, we wanted to
4 be able to integrate worker safety and health into
5 LEED.

6 We talked about the 2009 version, and we are
7 talking to them about the version that is to come out
8 next year.

9 CHAIRMAN STAFFORD: They open up the SBGC
10 comments at different times when they go through
11 looking at the LEED ratings, organizations have made
12 comments about how you can incorporate occupational
13 safety and health into the LEED rating systems as well.

14 MS. SHORTALL: Going back to the nail guns, I
15 couldn't read all the medical organizations, but I know
16 you mentioned hand surgeons. Do you have data on what
17 extremity of the body is most often affected with nail
18 gun injury? Is it the hands?

19 MR. GILLEN: Yes, it is.

20 MS. SHORTALL: Are there nail gun injuries
21 where it hits the feet or legs?

22 MR. GILLEN: Those are listed.

1 MS. SHORTALL: I don't know if the list there
2 had the General Orthopedic Doctors or Surgeons
3 Association. That may be another one to reach out to.

4 I don't know if NIOSH is allowed to do this,
5 this could be a qualifier, but I do know a number of
6 hardware stores, big ones, have pretty extensive
7 websites.

8 Is NIOSH allowed to put like a nail gun or
9 something else on their websites?

10 DR. BRANCHE: On our website?

11 MS. SHORTALL: No, on their websites.

12 DR. BRANCHE: Anybody can post it. They can
13 post our information.

14 MR. GILLEN: We did some research and we found
15 they have like a buyer's guide on the websites, how to
16 choose a nail gun. When we did this outreach, we sent
17 the guidance to people at the big box stores and other
18 groups. I don't know that they have.

19 MS. SHORTALL: You mentioned MSDs. Are you
20 only looking at manual handling MSD issues or a broader
21 range?

22 MR. GILLEN: In that particular document, it's

1 more manual handling.

2 MS. SHORTALL: Since it's a document that has
3 come out from NIOSH --

4 MR. GILLEN: It hasn't come out.

5 MS. SHORTALL: That will be coming out, will
6 it be looking at per metrics at the 95th percentile
7 which your lifting index now does?

8 MR. GILLEN: No.

9 DR. BRANCHE: It's always a pleasure to be
10 asked to make a presentation to you. Thank you very
11 much.

12 CHAIRMAN STAFFORD: Any other questions or
13 comments?

14 MS. DAVIS: I just want to compliment you on
15 the amount of work you have done. It's very
16 impressive.

17 CHAIRMAN STAFFORD: I know in the building
18 trades, we work with NIOSH to try to promote the
19 availability of HHE, and we really have a great one
20 going on now in NIOSH. The under utilization in
21 construction, would you contribute that to the
22 employers just don't know it is available or it's

1 onerous?

2 Is there any kind of assessment of what needs
3 to be done to improve the program for construction
4 within NIOSH?

5 MR. GILLEN: I don't know for sure what
6 studies our HHE program has done to look into it. I
7 think in general it looked into that, trying to
8 encourage people to use that and doing more of their
9 own outreach. They have done some of that.

10 Within construction, I don't know because
11 years ago, there were quite a few, ten or so, and it
12 has kind of dwindled down. I don't really know.

13 DR. BRANCHE: I don't think people have an
14 understanding about the HHE program, the fact that
15 NIOSH is still doing one. I think people had not been
16 aware of that.

17 In review of the HHE program in general, one
18 of the basic criticisms was the fact that NIOSH had not
19 continued to make people aware of the fact that the
20 program is available.

21 We know our colleagues in the HHE program have
22 said they would like to entertain opportunities to do

1 HHEs in construction. Of course, just because someone
2 asks doesn't mean it is going to be done. A new
3 problem has to be uncovered. We would like people to
4 request an HHE. We need someone to submit the request.
5 People have to request that of NIOSH.

6 MR. CANNON: Is there a company size limit,
7 like an OSHA consultation, where it is small employer
8 only?

9 DR. BRANCHE: No. The fact that you have
10 asked that question makes me wonder if that is another
11 concern. There are no limits on size.

12 MR. CANNON: If someone calls in, they expect
13 they have a problem, and if it is identified they do,
14 that information is made public; correct? Could that
15 be a deterrent?

16 DR. BRANCHE: Yes, we are a public entity so
17 we are in the public domain, and yes, the information
18 is made public.

19 MR. GILLEN: The owner and employer are
20 identified.

21 DR. BRANCHE: We are not a regulatory entity.

22 MR. GILLEN: It is really not any standard

1 they could be in violation of because nobody knows what
2 is going on, some workers are sick, there is a concern.

3 It's a new type of tool and it seems to be putting out
4 a lot of dust. It is that kind of question that it is
5 perfect for.

6 OSHA people can do a very good inspection but
7 say we don't have any standards for that, so we are
8 going to leave.

9 MR. BARE: The FACE program, I think that is
10 an excellent program. I think it provides excellent
11 information for the industry.

12 I know some of the states have dropped the
13 program like Nebraska and a few other states. Is it
14 still a very active program? If it's not being done by
15 some of the states, is there anything that can be done
16 to help rejuvenate that or spark interest from a state
17 so they participate in the program?

18 MS. DAVIS: Every five years, we compete
19 against each other, just like a bidding process. There
20 are a limited amount of funds. There were less funds
21 available. For two states, we were not funded. It's a
22 funding issue. A number of states competed and were

1 not funded.

2 It has really been a resource issue rather
3 than a level of state interest.

4 MR. SCHNEIDER: I just wanted to comment on
5 the HHE question. We recommended, and I believe NIOSH
6 is moving forward on this recommendation, that when
7 HHEs are published, they don't identify the company.
8 The purpose of the HHE is really to learn about
9 potential hazards and it is not to finger a particular
10 company. It is really knowledge the whole industry is
11 going to benefit from.

12 I believe the program is moving towards doing
13 anonymous reports, and the company and the workers at
14 that company will get the report. The public report
15 will actually not identify the company.

16 DR. BRANCHE: If there is one large
17 manufacturer X in state Y, there is only one of that
18 type. We are not trying to impugn anyone.

19 CHAIRMAN STAFFORD: Thank you. Christine and
20 Matt, thank you very much.

21 (Applause.)

22 MS. SHORTALL: At this point, I'd like to

1 enter as Exhibit 3 the NIOSH Update PowerPoint
2 presented by Christine Branche and Matt Gillen.

3 CHAIRMAN STAFFORD: Thank you, Sarah.

4 We are going to try to get one of our work
5 group reports in before our lunch break, and that is
6 the training and outreach work group.

7 TRAINING AND OUTREACH WORK GROUP REPORT

8 MR. ERICKSON: Members of our work group are
9 Kevin Cannon, Bill Hering and myself, Roger Erickson.

10 We called the meeting to order at 8:00
11 yesterday morning. Following the introductions, the
12 minutes from the May 9, 2012 meeting were reviewed.

13 The first order of our work group yesterday
14 was the OSHA 10 and 30 hour course introduction, the
15 "Intro to OSHA" part, which drew considerable comments
16 and conversation, of course.

17 Jim Maddux spoke on a previous motion that
18 Chairman Stafford had made at that May 9 meeting. Hank
19 Payne weighed in as well on the concerns and
20 difficulties the Department has with the issue,
21 basically how to limit, what to limit, that part of the
22 two hour intro.

1 Questions, comments and concerns ranged from
2 does the curriculum support the objectives of the
3 topic, concern of whether instructors would be able to
4 cover the required information in the set time frame,
5 once one was established, the power to let the
6 instructor have the flexibility to cover the topic as
7 they see fit.

8 There was also a comment or concern regarding
9 immigrant workers, those workers who might not have the
10 basic background of OSHA from the inception, the basic
11 history, so forth.

12 The on-line training was the next topic
13 addressed. As Mr. Payne had mentioned earlier today,
14 two issues were the fraud issue and customer service
15 issues.

16 The Department is in the process of revising
17 the solicitation process and currently, as he stated,
18 there are 11 entities that are providing the on-line
19 training.

20 There was a question regarding a clarification
21 on the 90 and 180 day rule. Mr. Payne clarified on the
22 on-line training that you had 180 days to complete that

1 training. I believe some people had been told that it
2 was 90 days, but the clarification was 180.

3 A question was also brought up is there any
4 significant difference between the on-line and hands
5 on, as far as research being done, and Hank Payne
6 basically stated, as he did earlier today, he has seen
7 no significant difference between the two types of
8 training.

9 The recommendation was made to change the
10 current requirement, getting back to the Intro to OSHA,
11 to a minimum of one hour and allow additional
12 flexibility to the instructor.

13 The final determination was the committee has
14 a recommendation which needs to be refined before
15 sending on, a recommendation was made to include the
16 rights of injured workers in any revised motion.

17 In regard to the falls campaign, Jim Maddux
18 reported it was a huge success and will be continued
19 for a second year.

20 An update on the Harwood Award, discussion on
21 the two different types of grants. Hank Payne
22 discussed the process for awarding grants and slightly

1 more than \$11 million has been awarded during this
2 current period.

3 The new business part of our report dealt with
4 refining the recommendation to the committee on the
5 Intro to OSHA requirement. The concern of the trainer
6 refresher class, the 500 to 502, we heard numerous
7 comments, complaints, about the cost and content of
8 these refresher classes, concerning travel and lodging.

9 What is the purpose of the course and are we
10 meeting the objective of the course.

11 Mr. Payne gave a brief history on the actual
12 OSHA 10 and 30 and the trainers going back to
13 originally being an intro to hazardous awareness, and
14 that was the original purpose of the training. Of
15 course, the Department knew as new standards came into
16 being, we would have to do updates.

17 As we all know, the new standards are farther
18 and further between now than at the inception of the
19 program, so a lot of discussion was centered on that.

20 A question toward Mr. Payne was is OSHA
21 interested in reviewing the refresher and his response
22 was yes.

1 CHAIRMAN STAFFORD: We have a motion and a
2 second. All those in favor, signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN STAFFORD: Opposed?

5 (No response.)

6 CHAIRMAN STAFFORD: The work group report has
7 been accepted.

8 We will move on to the motion that came out of
9 that work group report. If you would read that again
10 for me. I will call for a second.

11 M O T I O N

12 MR. ERICKSON: The outreach and training work
13 group moves that ACCSH recommends that OSHA maintains
14 and enhances the introduction to OSHA learning
15 objectives, which should include the rights of workers
16 to report injuries without retaliation.

17 Furthermore, the set two hour time requirement
18 be eliminated and left to the discretion of the
19 instructor conducting the class.

20 CHAIRMAN STAFFORD: Thank you. I think as a
21 matter of order, there are probably two things we need
22 to do. If there is any discussion or comment about the

1 work group report?

2 MR. JONES: So move.

3 COMMITTEE MEMBER: Second.

4 M O T I O N

5 CHAIRMAN STAFFORD: We have a motion and a
6 second. All those in favor, signify by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN STAFFORD: Opposed?

9 (No response.)

10 CHAIRMAN STAFFORD: The work group report has
11 been accepted.

12 We will move on to the motion that came out of
13 that work group report. If you would read that again
14 for me. I will call for a second.

15 M O T I O N

16 MR. ERICKSON: The outreach and training work
17 group moves that ACCSH recommends that OSHA maintains
18 and enhances the introduction to OSHA learning
19 objectives, which should include the rights of workers
20 to report injuries without retaliation.

21 Furthermore, the set two hour time requirement
22 be eliminated and left to the discretion of the

1 instructor conducting the class.

2 CHAIRMAN STAFFORD: Thank you. The motion has
3 been made. Is there any discussion?

4 COMMITTEE MEMBER: Second.

5 CHAIRMAN STAFFORD: Any discussion?

6 MS. SHORTALL: Yes. I think there needs to be
7 some changes in the motion. It is no longer going to
8 be the outreach and training work group recommending
9 it, it is ACCSH recommending that OSHA do something.
10 We need to delete that part.

11 In the second sentence, it should state
12 "Furthermore, ACCSH recommends," so that is the second
13 recommendation.

14 The motion technically would be "Roger
15 Erickson moves that ACCSH recommends that OSHA
16 maintains and enhances the introduction to OSHA
17 learning objectives, which should include the rights of
18 workers to report injuries without retaliation.

19 Furthermore, ACCSH recommends that the set two
20 hour time requirement be eliminated and left to the
21 discretion of the instructor conducting the class."

22 Would you accept those as friendly amendments?

1 MR. ERICKSON: Yes.

2 COMMITTEE MEMBER: Second.

3 CHAIRMAN STAFFORD: It has been unanimously
4 approved -- the motion has been made and seconded.

5 There is no discussion on the motion.

6 All those in favor, signify by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN STAFFORD: Opposed?

9 (No response.)

10 MS. SHORTALL: I would like to enter Exhibit
11 5, the training and outreach work group report from the
12 November 28, 2012 meeting.

13 Exhibit 6, the OSHA outreach and training
14 program introduction to OSHA web page handout from the
15 work group meeting.

16 Exhibit 7, the recommended modifications to
17 the introduction to OSHA's construction outreach
18 program delivered at the work group meeting yesterday.

19 CHAIRMAN STAFFORD: Thank you, Sarah.

20 MS. SHORTALL: As Exhibit 4, ACCSH's work
21 group list, which includes the work groups, co-chairs
22 and OSHA liaisons.

1 CHAIRMAN STAFFORD: To follow up on our
2 discussion this morning with Hank, I think it would be
3 appropriate for us to also take action with respect to
4 the review of the overall OSHA OTI program and how it
5 works in our industry.

6 I will turn it over to Tish who I think has
7 language for that purpose.

8 M O T I O N

9 MS. DAVIS: Yes. I would like to put on the
10 table for discussion the following recommendation:
11 ACCSH recommends that OSHA with guidance from the ACCSH
12 outreach and training work group, conduct a third party
13 assessment of the OSHA OTI training program in its
14 entirety as it relates to the construction industry, to
15 include detailed recommendations for refining the
16 program to address current needs.

17 The assessment and development of a
18 recommendation should include stakeholder input to
19 ACCSH and other venues.

20 MR. JONES: Second.

21 CHAIRMAN STAFFORD: The motion has been made
22 and seconded. Any discussion?

1 (No response.)

2 CHAIRMAN STAFFORD: All those in favor,
3 signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN STAFFORD: Opposed?

6 (No response.)

7 CHAIRMAN STAFFORD: Great.

8 MR. CANNON: I have a question for Sarah. One
9 of the things you and I talked about was the
10 compliance, material gaps analysis. My thinking is
11 between now and whenever the next meeting is scheduled,
12 that we convene by conference call.

13 Is there a limit and can it include all
14 participants of the work group meeting?

15 MS. SHORTALL: Yes. We have developed a
16 procedure since FACA, Federal Advisory Committee Act,
17 does not specifically cover subcommittees or work
18 groups.

19 Our procedure is whether it is held here in
20 conjunction with an ACCSH meeting or at a separate
21 time -- we always ask for telephone numbers and
22 e-mails.

1 When the work group decides when they would
2 want to hold a teleconference, Damon will send out an
3 e-mail to every person who is on that sign up sheet so
4 they can participate.

5 The teleconference company that we use has an
6 unlimited number of lines whereby people can
7 participate. We just have to let them know what we
8 anticipate using.

9 Anyone who contacts Damon indicating they have
10 an interest will be able to use the telephone and
11 participate.

12 What we will do at the same time is make sure
13 we have a local room here in the building where the
14 teleconference will be held. If anyone prefers to be
15 here in person, they can do so.

16 If members of ACCSH wanted to be here in
17 person, they can do so.

18 I do have to caution you, OSHA does not pay
19 for travel for work group meetings.

20 By teleconference, you would conduct the
21 meeting in the exact same way. It would be expected
22 for the chairs to prepare a work group report from that

1 teleconference that would be put into the record at the
2 next ACCSH meeting.

3 We will also distribute probably the draft
4 minutes as soon as they are prepared, so if people have
5 questions, they can contact people.

6 We announce the teleconference meetings on our
7 web page. We don't put it in the Federal Register.
8 Recently, NIOSH has held a couple of teleconferences,
9 and on the very front page of OSHA's web page, it says
10 NIOSH to hold teleconference. Anyone else broader than
11 our group here who is interested can participate.

12 Of course, if you haven't signed up, if you
13 didn't attend the work group meeting, and this is an
14 issue of concern to you, you should contact Damon
15 Bonneau, to get yourself added. He is our point
16 person. He is always our point person here at the
17 Department.

18 MR. PRATT: Being new, we just passed motions.
19 What happens now? When can we expect something from
20 this, from these two motions?

21 MS. SHORTALL: We indicated on Tuesday that
22 OSHA is not bound to take action on the motions. They

1 do keep a written record of the motions that come in
2 and where they are in terms of status. It could be
3 this is not an OSHA priority at this time.

4 MR. PRATT: If that happens, then we bring it
5 back up at the next meeting?

6 MS. SHORTALL: If you want to. The motions
7 are in the transcripts. They are in the minutes of
8 this meeting. I type up for OSHA all the motions and
9 exhibits. If you ask Damon, I'm certain he can give
10 you a copy of that.

11 MR. PRATT: Okay.

12 CHAIRMAN STAFFORD: Thank you, Sarah. Any
13 other questions or comments before we break?

14 (No response.)

15 CHAIRMAN STAFFORD: We'll try to reconvene at
16 1:00.

17 (A luncheon 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 (1:08 p.m.)

3 CHAIRMAN STAFFORD: Let's call the meeting
4 back to order, please. As a reminder, anyone who would
5 like to make public comments, right now the public
6 comments period is scheduled at 4:00.

7 The way we are going through the agenda, it
8 may be earlier. If you signed on to make public
9 comment, be sure you are here at the end of the
10 meeting.

11 We have only one speaker this afternoon, and
12 of course, that is David Michaels, and the rest of the
13 afternoon is going to be devoted to our work group
14 reports.

15 We have scheduled half an hour for each
16 report. Some may be a little less, some may be a
17 little more. We will just keep moving on. I hope we
18 can get two reports in before Dr. Michaels is due to
19 arrive at 2:00. We also have to be a little flexible
20 with his schedule as well.

21 With that, we are going to have the report of
22 the I2P2 work group, and I will turn that over to Tom

1 or Tish, however you two have decided to handle it.

2 INJURY AND ILLNESS PREVENTION
3 PROGRAM WORK GROUP REPORT

4 MR. MARRERO: The meeting was called to order
5 by Tom Marrero and Tish Davis. Following the
6 introductions, Jim Maddux of OSHA gave a brief update
7 on the status of the I2P2 proposed rule.

8 Tom Marrero gave a brief recap of the minutes
9 from the May 9, 2012 IP2P work group meeting. This was
10 followed by input via telephone from Shannon Lusk,
11 Missouri Valley, Inc., a mechanical contracting firm,
12 with about 65 to 75 employees.

13 The concern was about the need to hire
14 additional staff to implement the I2P2, and asked for
15 more guidance regarding details on the specifics of
16 what the program entails, what is meant by worker
17 participation and management involvement.

18 Kristi Barber seconded the concern about
19 potential costs to small employers and the need for
20 more guidance and details.

21 She emphasized that with the small employers
22 with 20 or less employees, safety is not a primary

1 concern. Their concern is simply trying to survive as
2 a company and it is difficult to create a culture of
3 prevention in a survival atmosphere.

4 Shannon Lusk also raised a concern about the
5 threshold, number of employees per company, that I2P2
6 would affect, as smaller contractors would have more
7 difficulty complying with the proposed standard.

8 Jim Maddux indicated this is yet to be
9 determined.

10 Kevin Cannon suggested that OSHA should
11 consider taking a look at the 1989 SHMP guidelines and
12 revise them so that they apply to I2P2.

13 Rob Matuga of the National Association of Home
14 Builders expressed support for the OSHA focused
15 inspection approach. He suggested looking into the
16 1994 memo on the focused inspections that required a
17 written program to qualify, focusing on the four major
18 hazards. This provides an incentive for employers to
19 develop these programs.

20 Jim Maddux reported this is still in place.

21 It was also suggested that the stakeholder
22 meetings are not bringing in sufficient small

1 employers, but Pete Stafford indicated the SBREFA
2 process focuses on this.

3 It was a concern that the I2P2 program might
4 be another method of citing under the general duty
5 clause in a back door way.

6 Insurance Services Group reported that NACOSH
7 has recommended that OSHA educate stakeholders about
8 I2P2.

9 The work group followed up on the
10 recommendation from the May 2012 meeting that OSHA and
11 NIOSH with input from ACCSH develop guidelines to
12 assist Federal, state and local government in
13 performing safety qualification assessments for
14 construction work.

15 Pete Stafford and others from the building
16 trades provided the work group with an initial draft of
17 a health and safety checklist to start the discussion.

18 The intent was to develop a relatively simple list
19 that could be used.

20 Work group members were generally supportive
21 of the concept. Staff from the DOL ETA were present at
22 the meeting and also expressed support. They indicated

1 a checklist would be useful. They also indicated their
2 willingness to work on it.

3 The issue of accountability was raised, i.e.,
4 the need for additional documentation to verify the
5 checklist. It was suggested there is a need for a
6 companion document describing what contractors need to
7 submit. These requirements could be built into the
8 solicitation packet.

9 The work group agreed to proceed with
10 developing the checklist. Comments on the draft
11 checklist and companion documents should be provided to
12 OSHA within 60 days.

13 The work group chairs and Pete Stafford will
14 work to develop a second draft at the next meeting. It
15 was suggested we also seek comments from other agencies
16 that already have health and safety pre-qualifications
17 in place.

18 Jessica Douma gave a brief update on a job
19 hazard analysis tool OSHA is developing to assist in
20 conducting these analyses. The tool is similar to SIMS
21 involving the construction work site and multiple
22 phases of construction. It should be ready for review

1 by the next ACCSH meeting.

2 It was suggested that safety professionals
3 should have the opportunity to provide input earlier in
4 the process.

5 ACCSH members and OSHA agree that I2P2 should
6 continue to address the above issues as they are
7 relevant to I2P2.

8 It was also suggested that OSHA collect best
9 practice examples for the six major components of the
10 I2P2 program on multi-employer sites.

11 The meeting was adjourned at noon.

12 CHAIRMAN STAFFORD: Thank you, Tom. Tish,
13 anything to add?

14 MS. DAVIS: No.

15 CHAIRMAN STAFFORD: We need a motion.

16 M O T I O N

17 COMMITTEE MEMBER: Motion to accept the report
18 as presented.

19 MR. HERING: Second.

20 CHAIRMAN STAFFORD: The motion has been made
21 and seconded. Any discussion?

22 MS. BARBER: I have some discussion. Where it

1 states "Kristi Barber made the concern about potential
2 costs," the next sentence, I would like to ask that the
3 words "some small employers with 20 or less employees"
4 be put into the notes.

5 I am an employer with less than 20 employees.

6 I am speaking for every employer who has 20 employees
7 or less.

8 Thank you.

9 MR. HERING: I'll have the motion include
10 that.

11 COMMITTEE MEMBER: I'll accept.

12 MR. HAWKINS: Mr. Chairman, I just want to let
13 you know I am on the meeting and I can hear fine.

14 CHAIRMAN STAFFORD: Appreciate that, Steve.

15 MS. SHORTALL: I think we should adopt this,
16 but I want to make a correction here. The comments
17 that we have on the draft checklist and companion
18 document should be provided to the work group chairs
19 within 60 days and not directly to OSHA.

20 You can leave it in here, but I just want to
21 tell you you need to give it to the work group chairs
22 and not directly to OSHA. The requirements specify

1 that subcommittees and work groups may not give
2 materials directly to the Agency. It has to filter up
3 through the committee itself, which is the only one
4 that can give something to the Agency.

5 MS. DAVIS: This is in the minutes. Can we
6 just change the minutes?

7 MS. SHORTALL: You can change the minutes if
8 you would like to. I just wanted to say to everybody
9 here who has comments, give them to the work group
10 chairs.

11 CHAIRMAN STAFFORD: I think we should change
12 it.

13 MS. SHORTALL: Just to be provided to the work
14 group chairs instead of OSHA.

15 COMMITTEE MEMBER: I'd like to amend the
16 motion to change the language as counsel just stated.

17 COMMITTEE MEMBER: Second.

18 MS. SHORTALL: There is a sentence after that,
19 I would cross everything out until you get to "Pete."

20 CHAIRMAN STAFFORD: We have the motion
21 straightened out and a second. All those in favor,
22 signify by saying aye.

1 (Chorus of ayes.)

2 CHAIRMAN STAFFORD: Opposed?

3 (No response.)

4 CHAIRMAN STAFFORD: Thank you. Before we move
5 off this, comments will be collected in the next 60
6 days. We will move to develop a draft, a next revised
7 draft. I think the discussion we had yesterday in
8 terms of the next ACCSH meeting, as we continue to
9 delve into this issue, we had decided to bring in some
10 procurement folks from other agencies as part of the
11 next work group meeting.

12 MS. DAVIS: I don't think that was explicit in
13 our discussion. It kind of came up. I think that's a
14 great idea. My question was we talked about getting
15 input from other agencies. It could be at the next
16 meeting. I would like to hear what they do at other
17 agencies.

18 CHAIRMAN STAFFORD: Okay. In the meantime, we
19 could also talk to different agencies in the interim,
20 get some feedback from some procurement people, talk to
21 folks like at the Army Corps of Engineers and other
22 folks as we continue to try to refine that. I'll take

1 that on myself as an activity to continue to try to get
2 some feedback to ground us in that procurement world.

3 When we first started talking about this
4 initiative, either at the last meeting or meeting
5 before, we had talked about if we could ever get to the
6 point that we had draft language that OSHA would
7 accept, and we would try to potentially introduce the
8 language through a presidential executive order.

9 I think that is still on the table and if we
10 could get to that point, it is something I would like
11 for us with OSHA to consider on how we may be able to
12 take that next step and come up with pre-qualification
13 language for our Federal Government procurement that
14 would be accompanied by a presidential executive order
15 that would put on record that the Federal Government is
16 serious about taking the lead of protecting
17 construction workers on the job sites that they
18 finance.

19 I think that is something we should consider
20 as we proceed with our deliberations here.

21 As far as Jaime's tool, we need to look at
22 that. We will have that at the next ACCSH meeting.

1 Between now and then, based on the comments we have
2 from those folks who have seen the tool, I'm not sure
3 what we should be doing as an activity to provide input
4 for OSHA in the next four or five months before we meet
5 again on the learning tool.

6 I don't know if the committee has any
7 suggestions, I'm looking to anybody on DOC staff, to
8 see how we could work with you or the group involved
9 with this between now and then to keep refining the
10 tools.

11 MS. SHORTALL: Since you have some people here
12 who are local, part of you here and the rest of you on
13 the phone. I can work with Damon on doing that. He
14 has set up some work group meetings already.

15 I do want to say that if you are contacting
16 other agencies, it's important to ensure that in the
17 conversations you have, whenever Jim Maddux thinks it
18 would be appropriate for OSHA to be involved, that you
19 have the OSHA person involved in those conversations.

20 CHAIRMAN STAFFORD: Did you hear that, Jim?

21 MR. MADDUX: Yes. I'll follow up with you at
22 some point after the meeting.

1 CHAIRMAN STAFFORD: Okay. Any other
2 discussion?

3 (No response.)

4 CHAIRMAN STAFFORD: We will move to our next
5 work group report, which is backing operations, Chuck
6 Stribling and Steve, who couldn't join us but is on the
7 phone. Steve is the other co-lead with Chuck on the
8 backing operations work group.

9 MS. SHORTALL: I'd like to enter into the
10 record as Exhibit No. 8 the approved injury and illness
11 prevention program work group report from the November
12 28, 2012 meeting, and as Exhibit 9, the Federal Agency
13 Procurement Construction Health and Safety Checklist.

14 CHAIRMAN STAFFORD: Thank you, Sarah. Chuck?

15 BACKING OPERATIONS WORK GROUP REPORT

16 MR. STRIBLING: Thank you, Mr. Chair. I've
17 been sitting in this chair all week and I intentionally
18 left the seat next to me vacant hoping my distinguished
19 colleague from the lesser State of Tennessee would be
20 here.

21 (Laughter.)

22 MR. STRIBLING: Unfortunately, he wasn't able

1 to do that, but I'm really glad he has joined us on the
2 telephone. I really appreciate having Steve around.
3 I've been told when he and I speak, we sound a little
4 alike. That's good because it doesn't make me sound
5 like the only hick in the room. Speak up and say
6 something, Steve.

7 (Laughter.)

8 MR. HAWKINS: I can hear well. I really can
9 hear well.

10 (Laughter.)

11 MR. STRIBLING: The backing operations work
12 group meet yesterday, November 28, at 1:20 p.m. Dr.
13 Teizer, Ph.D. and Associate Professor from Georgia
14 Institute of Technology, addressed the work group and
15 presented a view of his research into proximity
16 detection systems and emerging technologies.

17 Dr. Teizer explained that his research shows a
18 lot of promise and most of what his laboratory has
19 developed, such as the hard hat with the warning system
20 and software for building information model is not yet
21 available in the marketplace.

22 He advised there is no technology available

1 that can eliminate all vehicles struck by incidents but
2 the technology can be a valuable aid in preventing back
3 over incidents.

4 His presentation was extremely informative and
5 generated positive discussion. Obviously, my summation
6 does not even begin to address the scope, breadth and
7 depth of his presentation.

8 If I tried to capture that, I don't think I'd
9 be done before Dr. Michaels got here, but I truly
10 enjoyed his presentation and it gave a lot of promising
11 and valuable information.

12 Following Dr. Teizer's presentation, Meghan
13 Smith from OSHA unveiled OSHA's backing web page. She
14 advised the web page is now live, but unfortunately, a
15 real time demonstration of the web page was not
16 feasible due to remote connectivity issues in this
17 meeting room.

18 Nevertheless, Ms. Smith provided a brief
19 overview of the primary sections of the web page. She
20 advised it addresses back over's in construction and
21 general industry and includes links to FACE reports, a
22 solutions page, a resources page, a regulations page,

1 and a standards interpretation page.

2 The chair acknowledged that ACCSH made the
3 recommendation to OSHA only two meetings ago to develop
4 a web page devoted to backing, and thanks to Ms. Smith
5 and Mr. Carl Butler also of OSHA for accomplishing this
6 task in a very timely manner.

7 Ms. Smith then presented 2011 data gathered
8 from the Bureau of Labor Statistics on fatalities from
9 workers being struck by a vehicle or mobile equipment
10 that was backing.

11 This is the first time BLS has gathered the
12 data specific to backing fatalities. In 2011, there
13 were 79 fatalities reported for all sectors. That is
14 presented in a variety of ways including the state of
15 the incident, birth place and employee status, month of
16 incident, day of week, time of the incident, et cetera.

17 Mr. Chairman, no motions were made and the
18 work group adjourned at 3:10 p.m.

19 CHAIRMAN STAFFORD: Thank you, Chuck. Steve,
20 do you have anything to add or any comments?

21 MR. HAWKINS: I do think the issue is starting
22 to gain some traction. I had the DOT safety

1 representative for Tennessee that had taken up
2 responsibility for our DOT workers bring me some
3 outreach material she received, including a clipboard
4 of a dump truck. On the back of the clipboard was a
5 diagram showing where the blind spots were for a
6 particular dump truck.

7 I am starting to hear other people talking
8 about it directly. I'm really excited about that.

9 CHAIRMAN STAFFORD: Any other questions or
10 comments?

11 The main product or output of the work group
12 was the website, I would also like to thank Meghan for
13 doing such a great job of getting the thing up and
14 running so quickly.

15 This begs the question next depending on what
16 OSHA does in response to the RFI on backing operations,
17 what is left for the work group to do in terms of next
18 steps. I think it is something we don't have to decide
19 here today, but if you have any thoughts about what the
20 work group should be doing in the interim, we would
21 appreciate your input on that.

22 MS. DAVIS: We talked about the whole

1 signaling issue.

2 CHAIRMAN STAFFORD: We talked about having a
3 better understanding, if there should be standardized
4 hand signals for backing operations, and that is
5 something we should look at or as a work group
6 activity.

7 MR. STRIBLING: I'm looking forward to hearing
8 the presentation tomorrow about what OSHA learned from
9 the comments. Certainly would be glad to look more
10 into standardized signals. We did send out a small
11 survey. Maybe we could send out the same survey or
12 another survey geared to a larger group of people, if
13 that would be beneficial. Maybe get some direction
14 from some of the OSHA staff on what might aid them,
15 based upon what we hear from the comments.

16 CHAIRMAN STAFFORD: It was either the last
17 meeting or maybe the meeting before, someone on the
18 work group had mentioned that the Army Construction
19 Battalion has standardized signals for backing
20 operations. I don't know if that is something we might
21 want to take a look at or start the process of trying
22 to collect some information on that.

1 Any other questions or comments?

2 (No response.)

3 CHAIRMAN STAFFORD: We have heard the work
4 group report. We need a motion to accept the report.

5 M O T I O N

6 MR. BETHANCOURT: I'll make a motion to
7 accept.

8 COMMITTEE MEMBER: Second.

9 CHAIRMAN STAFFORD: Any more discussion?

10 (No response.)

11 CHAIRMAN STAFFORD: All those in favor,
12 signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN STAFFORD: Opposed?

15 (No response.)

16 CHAIRMAN STAFFORD: Thank you.

17 MS. SHORTALL: I would like to enter into the
18 record as Exhibit No. 10, the backing operations work
19 group report from the November 28, 2012 meeting.

20 I would also like to enter into the record as
21 Exhibit 11, proximity detection system PowerPoint
22 presentation by Dr. Teizer, Construction Industry

1 Institute, Georgia Institute of Technology.

2 As Exhibit 12, the OSHA back over prevention
3 technology PowerPoint handout.

4 As Exhibit 13, OSHA backing operations web
5 page. Exhibit 14, fatal injuries, a worker being
6 struck by a vehicle or motor equipment that is backing
7 up, all industries, Bureau of Labor Statistics 2011.

8 CHAIRMAN STAFFORD: Thank you, Sarah.

9 Matt and Walter, are you ready?

10 MS. DAVIS: Pete, I think it is worth
11 recognizing Dr. Teizer yesterday not only for his
12 passion for this issue but his recognition of his
13 students. I really felt he presented an incredible
14 team.

15 CHAIRMAN STAFFORD: He did.

16 MR. STRIBLING: Here, here.

17 CHAIRMAN STAFFORD: Walter?

18 HEALTH HAZARDS/EMERGING ISSUES/PREVENTION
19 THROUGH DESIGN WORK GROUP REPORT

20 MR. JONES: I'll just quickly start. The
21 health hazards/emerging issues/prevention through
22 design work group meeting was held yesterday around

1 noon.

2 We had 42 attendees. The co-chairs for this
3 group are myself, Walter, Matt Gillen, and Donald
4 Pratt.

5 We discussed three issues yesterday. We did
6 not have enough time to get a sense of the room in
7 terms of motions, but I think there are some motions
8 that will come out from individual ACCSH members.

9 The first topic we talked about was nano
10 technology in construction. I'm not going to read
11 everything on here. I've got some pretty detailed
12 notes.

13 The two speakers we scheduled to provide
14 information was Kristen Kulinowski from the Institute
15 of Events Analysis at the Science and Technology Policy
16 Institute, and Bruce Lippy from CPWR.

17 Kristen began first by giving us basically an
18 overview of the work in nano technology in terms of the
19 scale and different classes of nano particles.

20 Most of could understand from our association
21 with asbestos fibers.

22 One of the more interesting things she talked

1 about was how nano particles when at the nano scale
2 normally change, their properties changed. She used an
3 example of gold. Gold which is yellow and conductive,
4 non-magnetic, but at the nano level, gold becomes red.

5 It loses conductivity, it becomes magnetic, and it
6 also becomes explosive and even catalytic.

7 Nano particles help with cancer therapy,
8 environmental clean up and clean energy. Kristen went
9 through some demonstrations on how titanium dioxide
10 added to glass actually gives glass a self cleaning
11 property.

12 Researchers are now asking what are
13 environmental and health and safety impacts of
14 engineered nano particles. The big concern is human
15 health concerns from inhalation, the major focus of
16 research.

17 It has been determined in animal studies that
18 certain nano materials can induce cancer, pulmonary
19 fibrosis, cardiovascular dysfunction, some nano
20 particles can migrate along the olfactory node,
21 straight into the brain.

22 Because nano particles can translate through

1 the skin or through the body, through ingestion or
2 contact, and induce health effects in animals and
3 cultures, it is believed exposure to nano particles
4 must be controlled.

5 In terms of regulations, globally, nano
6 particles are loosely regulated with most governments
7 providing just limited guidance on safety assessments.

8 EPA has PPE requirements for a certain
9 multi-wall carbon nanotubes, and those requirements are
10 gloves and chemical protective clothing, as well as
11 NIOSH approved N-100s, which is fantastic.

12 Now we are looking at PPE being required as a
13 task based approach instead of the typical
14 industrialized approach to what is the hazard
15 assessment.

16 EPA is using this new chemical approach. When
17 you are using these particles, you have to use this
18 type of protection. This is a way forward in
19 occupational safety and health.

20 Bruce Lippy began by pointing out carbon nano
21 particles were found at Ground Zero, and nano particles
22 are pretty commonly found in air.

1 What he wanted to make sure we focused on was
2 nano particles or nano technology as engineered nano
3 particles, the ones that are created as such.

4 In construction, there are many promising
5 applications that enhance durability and strength.
6 However, there is limited commercialization due to the
7 very high costs associated with nano particles.

8 In Europe, there is more activity with nano
9 particles, with 94 products out there, 94 different
10 products with nano particles as part of the material.

11 In terms of worker exposure to engineered nano
12 particles, human health and human health risks, we
13 still do not know that much. Studies have shown that
14 inhalation of engineered nano materials during
15 coatings, compounding and molding can pose respiratory
16 health risks to workers.

17 Bruce cited some corroborating sampling's from
18 2009 where mixing nanocrete and applying titanium oxide
19 onto glass showed some modest exposure.

20 In terms of industrial hygiene, sampling
21 protocols have not been developed and we are still
22 relying on the age old NIOSH method. One micrometer

1 particle weighs the same as one billion nano particles.

2 It is difficult to distinguish because they
3 are always influenced or massed by other items that
4 you're sampling.

5 According to Bruce, surveys indicate the vast
6 majority of workers are unaware they are using this
7 material. Literature reviews and studies, their
8 accuracy is relatively poor, and not really
9 comprehensible. Less of them provide cautionary
10 handling language.

11 Because of the lack of information, Bruce is
12 working with CPWR, leading a CPWR initiative to
13 identify specific construction related products and
14 create a registry.

15 They are also identifying applicable control
16 strategies and measuring their effectiveness with nano
17 particles.

18 We had speakers from the Directorate of
19 Technical Support and Emergency Management. The
20 speakers informed the work group that the Office of
21 Science and Technology Assessment is investigating
22 worker exposure to thermal decomposition of organic

1 compounds, such as organic coating's, steel and other
2 structures, when extreme heat is applied.

3 They were indicating that workers may be
4 exposed to these coating's through inhalation when
5 extreme heat and flame from torches are used for
6 cutting and welding.

7 Much of the initial work has come from unique
8 workplaces, such as oil and gas rigs and in very cold
9 climates. When exposed to flame, these organic
10 coating's or polymers can give off fumes, and it may
11 break down into components and form other by-products
12 that could be harmful when inhaled.

13 There is a potential concern for the
14 construction industry in welding and cutting up heating
15 pipes during installation and repairs, joint welding
16 and heat flexing of floor covering's, especially in
17 small rooms with limited ventilation, steel framing in
18 building and construction, and the reclamation of scrap
19 metal.

20 The folks from OSTA believes this area needs a
21 lot more study and research and asked folks on the
22 committee and in the audience for leads to further

1 advance their research.

2 Our third topic was FCC. We asked them to
3 discuss radio frequency, since this is their area of
4 jurisdiction. Martin Doscad accompanied by Agency
5 colleagues, provided an overview on how the FCC
6 exposure system works. We did get a handout of the
7 presentation. It gives a pretty good description of
8 exactly how the exposures can happen.

9 The FCC has two exposure limits, exposure
10 limits for the whole body exposure at greater than 20
11 centimeters in distance, and one for specific
12 absorption rates for localized exposures at less than
13 20 centimeters.

14 Each of these has two limits, one for
15 occupational controlled exposures and a lower exposure
16 limit for general population.

17 What the FCC does is they have PELs for
18 workers and they have PELs for exposures to the general
19 population.

20 The FCC licenses source such as broadcast
21 antennas, higher power AM, FM, and T.V., radar,
22 wireless base stations. It also licenses portable

1 sources such as two way radio's, cell phones, laptops,
2 et cetera.

3 The FCC requires a variety of control
4 approaches to limit exposure. It requires the
5 placement of warning signs and signs warning the ranges
6 for exposures between general population and
7 occupational exposures.

8 Cautions for exposures from one to ten times
9 the occupational limit, warning for exposures ten times
10 over the occupational limit. That is where your signs
11 are.

12 Exposures fall off with distance, and well
13 defined marking's can be used to help create exclusion
14 zones. However, some antennas are concealed for
15 esthetics reasons behind signs or disguised in trees,
16 flag poles and other structures.

17 Signs and instructions might be less clear
18 when these antennas are found to be disguised.

19 The FCC holds its licensees accountable for
20 exposure compliance and not the owner of the building.

21 FCC has technical standards on how to measure, assess
22 and avoid exposures in excess of FCC limits. The FCC

1 does collect complaint information and is not aware of
2 anyone injured from wireless base stations, as they
3 said in the meeting we had, no one is complaining.
4 Again, they are not doing any surveillance as well.

5 They are aware of injuries related to
6 broadcast antennas. In response to a follow up
7 question, the FCC stated it does not have a system of
8 surveillance to identify over exposures.

9 ACCSH Member Bill Hering shared his experience
10 in reviewing applications by carriers for placement of
11 cell phone antennas. He stated potential occupational
12 exposures are never mentioned.

13 He gave an example of antennas inside a
14 billboard structure as an example of where workers
15 might have exposures and never being aware of what they
16 were being exposed to.

17 Robert Weller from the FCC provided additional
18 detail on how FCC enforcement works. He indicated the
19 FCC authority is limited just to the licensees. The
20 licensees must certify they are in compliance.

21 In response to questions about how building
22 owners could override access controls, Robert Weller

1 indicated the FCC has had discussions with OSHA
2 Solicitors about how this could be addressed.

3 In addition, the FCC will use general
4 population uncontrolled limits instead of the
5 occupational control limits for wider areas.

6 Greg Lutz of NIOSH mentioned the FCC has
7 worked closely with NIOSH and other agencies, and he
8 suggested the limit for potential construction
9 exposures might be dealing with notification and
10 exposure issues beyond -- dealing with these issues
11 might be beyond the direct control of the FCC
12 jurisdiction.

13 Drew Fountain described inadvertent radio
14 frequency exposures as a hazard in plain sight and
15 suggested the signs can be misplaced and are often
16 ambiguous for workers. He said the time weighted
17 averaging used for the exposure units are great for
18 employers and workers who have knowledge about
19 exposure, but this is not often the case.

20 In response to a question from ACCSH, Tish
21 Davis, the FCC representatives indicated they do
22 complaint based enforcement. For example, if they find

1 absence of notification or signage.

2 ACCSH Chair Pete Stafford stated his
3 impression from the discussion was that a regulatory
4 gap might exist, and some type of ACCSH recommendation
5 might be in order.

6 The co-chairs thanked the speakers for their
7 excellent presentations, and the meeting was adjourned
8 at 2:00 p.m.

9 CHAIRMAN STAFFORD: Thank you, Walter. Matt?

10 MR. GILLEN: Just to congratulate Walter.

11 CHAIRMAN STAFFORD: That was great, Walter.
12 You did a fantastic job.

13 MR. PRATT: I'd like to offer one small change
14 in the minutes. This will be on page three at the top
15 under Section Two, the fourth line down.

16 "As steel framing and building construction
17 and reclaiming of scrap metal and other work in
18 demolition," I would like to add "and de-construction."

19 We talked about that earlier today. I think
20 that should be added, "de-construction" also.

21 MR. JONES: That's fine.

22 CHAIRMAN STAFFORD: Just for clarification, we

1 don't need to change the minutes, in terms of Bruce's
2 report and what the CPWR wants to do, there is one
3 thing, we know about engineered nano particles in
4 applications in the construction industry, but we don't
5 know very much, and as a practical starting point, our
6 goal is to develop an inventory of nano particle
7 products that are used in the United States
8 construction industry.

9 Secondly, in my view, as a practical first
10 step, to try to understand, to actually get in the lab
11 setting and start doing some sampling of those products
12 that we know are used.

13 Those are two things that CPWR is hopeful to
14 do to kind of start taking a look at this emerging
15 issue.

16 MS. SHORTALL: First of all, this is a point
17 of personal privilege. I just have to say I think this
18 is the best work group report I have ever received.
19 Working as counsel, I would like to compliment whoever
20 put it together. Please accept my compliments.

21 MR. GILLEN: Thanks for getting us in trouble
22 with all the other work groups.

1 (Laughter.)

2 MS. SHORTALL: In terms of additional
3 information, if the work group wants to continue to
4 look at nano technology, I might suggest a speaker from
5 the National Technology Initiative, which is a central
6 coordinating agency on nano technology. They have
7 quite an extensive website.

8 For a number of years, nano technology has
9 been dealt with as an inner agency issue, the
10 President's Office of Science and Technology Policy,
11 and also the international bodies.

12 Having someone from there come to speak might
13 also help the work group understand what is happening
14 on the issue.

15 MR. GILLEN: Thanks.

16 MR. JONES: Thanks.

17 CHAIRMAN STAFFORD: We have heard the report.

18 No more discussion. Motion to accept the work group
19 report?

20 M O T I O N

21 MS. DAVIS: I move.

22 MR. BETHANCOURT: Second.

1 MS. DAVIS: One thing I'm interested in is
2 understanding who is responsible for labeling
3 requirements, outside of the MSDS process.

4 MR. JONES: We are going to try to address
5 that.

6 CHAIRMAN STAFFORD: We have a motion and a
7 second. All those in favor?

8 (Chorus of ayes.)

9 CHAIRMAN STAFFORD: Any opposed?

10 (No response.)

11 CHAIRMAN STAFFORD: Great. For those of you
12 who are interested in public comments, sign up. We are
13 not going to go until 4:00. It is going to be much
14 earlier than that.

15 M O T I O N

16 MR. JONES: We do have motions. I'm sorry.
17 Because the committee did not have enough time to get a
18 sense of the room or take a vote amongst ACCSH members
19 that were there, there were two motions that we thought
20 might be worth ACCSH considering.

21 As an ACCSH member, I'm going to throw the
22 first one out there. Construction, building and

1 maintenance workers can be inadvertently exposed to
2 radio frequency during renovation, maintenance, and
3 related tasks, cell phone and wireless base stations.

4 Because the FCC has jurisdiction over the
5 licensees that own the equipment but not the employers
6 or building owners, there appears to be an important
7 gap.

8 I move that ACCSH recommends that OSHA or DOC
9 for that matter and the FCC collaborate to develop the
10 following: simple guidance for building owners on
11 preventing inadvertent radio frequency exposure to
12 construction and maintenance workers.

13 Two, simple guidance for construction
14 employers and employees on preventing inadvertent radio
15 frequency exposure to construction and maintenance
16 workers, and three, a memorandum of understanding to
17 clarify the roles and ensure availability of meaningful
18 enforcement options for construction and maintenance
19 workers to address inadvertent radio frequency
20 exposures.

21 CHAIRMAN STAFFORD: We have a motion. Do we
22 have a second?

1 MR. HERING: I will second that.

2 MS. SHORTALL: Walter, could you please repeat
3 number three?

4 MR. JONES: I can give it to you.

5 CHAIRMAN STAFFORD: We have a motion and a
6 second. Any further discussion?

7 MS. SHORTALL: Number three is memorandum of
8 understanding to clarify roles and ensure availability
9 of meaningful enforcement options for construction and
10 maintenance workers to address inadvertent radio
11 frequency exposures.

12 MR. PRATT: Walter, I didn't catch everything
13 that was said, but was there something in there about
14 who is responsible to do this or you just want to have
15 it studied?

16 MR. JONES: I think what we are looking at is
17 a memorandum of understanding so it could be clear to
18 the construction worker and the maintenance worker who
19 they are supposed to turn to for help in terms of the
20 Federal agencies, is it FCC protecting them or is OSHA
21 going to protect them, and for OSHA and FCC to figure
22 that out.

1 Right now, the FCC, based on their testimony,
2 are only regulating the licensees. They are not
3 regulating the building owners or anyone else.

4 If a worker from a building owner is exposed,
5 they have no recourse to deal with that exposure.

6 MR. PRATT: Is the intent to get the two
7 agencies together to figure this out? I didn't hear
8 any direction.

9 MR. JONES: Yes, figure it all out.

10 CHAIRMAN STAFFORD: I think you are right.
11 That is what a memorandum of understanding would do,
12 lay out how the two agencies would work together to
13 fill this gap.

14 MS. SHORTALL: A memorandum of understanding
15 is often used where there may be something potential
16 under Section 4(b)(1) of OSHA, to try to figure out who
17 has the authority to take action.

18 Under Section 4(b)(1), if another agency has
19 authority and exercises that authority to control
20 working conditions, then OSHA is prohibited from taking
21 action. In other words, we are preempted.

22 What we do in many of our MOUs is to figure

1 out what is the extent of that authority and the extent
2 of our authority.

3 Sometimes we have had situations in which
4 another agency decides they would like OSHA to take
5 over jurisdiction because they don't have resources or
6 are dealing with something else.

7 I don't know when Walter says "licensees" are
8 controlled by them, I don't know how far that extends.

9 It could extend to the working conditions in that
10 area, regardless of who was being exposed and their
11 employment status.

12 I think it would take some effort in my shop.

13 MR. JONES: They are already in talks on that.

14 MS. SHORTALL: What they have done is talk.

15 As you heard yesterday, FCC has a process of rulemaking
16 to update their regulations. OSHA has been involved in
17 this, too.

18 In addition, right now the proposal is before
19 the Commissioners of the FCC. When they agree this
20 proposal is ready to go out, it will be published in
21 the Federal Register, and people will have a chance to
22 comment on it, which means any of you, any of your

1 organizations will be able to do it.

2 They will be able to see from that where they
3 are planning to go with rules and what affects working
4 conditions.

5 CHAIRMAN STAFFORD: We had a motion and a
6 second. Any more discussion?

7 (No response.)

8 CHAIRMAN STAFFORD: All those in favor,
9 signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN STAFFORD: Opposed?

12 (No response.)

13 CHAIRMAN STAFFORD: Walter, you have a second
14 motion? Is Dr. Michaels here? Yes, he is. We will
15 let Dr. Michaels come up and we will get back to this.
16 Thank you.

17 Dr. Michaels, welcome. It is good to see you.

18 ASSISTANT SECRETARY'S AGENCY UPDATE AND REMARKS

19 DR. MICHAELS: Thank you, Mr. Chairman.

20 CHAIRMAN STAFFORD: It is always a pleasure to
21 have you here before our committee. We have had an
22 excellent meeting and excellent work group meetings for

1 the last couple of days. Our new members are well
2 engaged. We appreciate you joining us. The floor is
3 yours. Thank you.

4 DR. MICHAELS: Great. Thank you so much. Let
5 me begin first by thanking all of you for your service,
6 and in particular, the new ACCSH members. I hope this
7 has been an enjoyable situation for you.

8 The work that ACCSH does is very important.
9 We value it highly and we know it has impact. For
10 decades, it has really helped shape OSHA's work. We
11 are grateful you have joined us, especially the new
12 members. Welcome.

13 I thought what I would do today is spending a
14 little time talking with you about how we think about
15 what we are doing at OSHA and what touches upon the
16 work of the Construction Directorate on the health and
17 safety of construction workers around the country.

18 I'll take a few questions and really would
19 love to hear some of your thoughts. I get a full
20 report from our staff about all of your deliberations.

21 The workplace has changed tremendously in the
22 last 40 years, whether it's because of many of you,

1 employers, trade associations, health and safety
2 professionals, and OSHA and NIOSH working together.

3 There were about 14,000 fatalities a year.
4 That has dropped to 4,000 a year. We have made great
5 progress. It is worth to think for a minute how much
6 safety in the workplace has improved as we think about
7 where we have to go.

8 We still have about 4,000 fatalities a year,
9 with probably 50,000 illnesses a year, fatal illnesses
10 a year. We don't know how many because it is not well
11 understood and well researched.

12 Most importantly for all of us what we see is
13 millions of injuries reported every year. This is the
14 estimate from the Bureau of Labor Statistics based on
15 their surveys, more than three million workers are
16 injured every year on the job.

17 That is a very high number. It is too high.
18 It hurts workers, it hurts their families, it hurts
19 employers and it hurts the economy.

20 Obviously, tens of billions of dollars a year
21 in waste as a result of those.

22 We have a ways to go. OSHA exists to help

1 employers. Employers have to provide a safe workplace.

2 It is OSHA's job to figure out how to make sure
3 employers do that.

4 We have a very broad mandate. We have nail
5 guns to nail salons. When you think about all the
6 types of workers who are covered by the OSHA laws, we
7 have to make sure they have safe workplaces.

8 There is a wide range of workers in
9 construction and manufacturing, all sorts of service
10 sectors, maritime, everybody except miners, workers in
11 mines.

12 We have to do it in multiple languages. The
13 members of workplaces are always changing, but an issue
14 that has really faced the United States for centuries
15 is we have immigrants. Our work force is made up of
16 immigrants, many of whom don't speak English. To be
17 able to work safely, you have to be trained in
18 hazardous and safe work.

19 You have to be trained in a language you
20 understand. OSHA has taken the position that if
21 training is required, training has to be done in a
22 language and vocabulary that workers understand.

1 We have been out at too many workplaces where
2 workers are injured and won't speak to the foreman, and
3 we will say why wasn't that worker trained properly,
4 and they say well, they don't speak English.

5 Our inspectors know that is not an acceptable
6 answer. If you hire a worker to do a job, you have to
7 be able to train them.

8 We try to address that issue by putting out
9 materials in many languages. These are just two
10 examples. The nail salon industry has Vietnamese
11 workers, so we put out materials in Vietnamese. A
12 great deal in Spanish.

13 The way I think about our challenge is to
14 think about the range of employers. I come from a
15 background in epidemiology and statistics.

16 When I think about employers and their
17 attitude towards workplace safety, I think there are
18 some that will stay on the right side of the curve,
19 great employers, and I'm sure the employers at this
20 table are there, VPP employers are there, the
21 construction companies that make sure that not just
22 their own workers are safe but who cascade their

1 requirements down through all the levels of
2 subcontractors and enforce those to ensure workers
3 aren't getting hurt, those are the companies that have
4 a great commitment to workplace safety.

5 We know there are many companies like that.
6 We understand they do it not just for the safety of
7 their workers, but for their own business as well. The
8 companies that manage for health and safety are the
9 profitable companies.

10 You can talk to Paul O'Neil from Alcoa and Lee
11 Raymond from Exxon. They will tell you. There are VPP
12 companies who tell us they would not be in China if not
13 for the VPP program.

14 Our approach to them is to say, great you are
15 doing a wonderful job. Give them a star, a flag. We
16 thank them. We don't have that much to offer them.

17 At the other end of the curve, the far left
18 end of the curve, are companies that have little or no
19 commitment to workplace safety, who often look at their
20 machines as being more valuable because it costs you to
21 replace a machine.

22 If a worker is injured, there is someone else

1 lined up outside to take their job.

2 We have situations like that. Recently we had
3 an employer who manufactured those little bottles you
4 get at a hotel, for conditioner and shampoo. A worker
5 burned over 80 percent of his body. The employer
6 didn't even call 911.

7 They eventually put him in a station wagon and
8 took him to a local physician, who said this person
9 needs to be in the hospital immediately. He died.

10 Most employers are probably somewhere in
11 between. They want to do the right thing, but they
12 don't have the incentive to do it, don't have the
13 knowledge to do it or have the resources to do it.

14 For each of those employers, we have different
15 tools. For the employers at the very far end, like the
16 one I described who manufactured those cosmetic things,
17 probably the best tool is a criminal referral to the
18 Justice Department. That is not a safety and health
19 issue, that's a criminal issue.

20 We have our inspection program. We know some
21 employers do the right thing not because it's the right
22 thing to do but because they are afraid of the OSHA

1 inspection and citation.

2 We have compliance assistance. We have
3 information through our website, through our compliance
4 assistance specialists, through our state consultation
5 programs, which offer free consultation to small
6 employers.

7 Those are employers who would like to make
8 sure their workers are protected but may not know how.

9 Finally, the employers who recognize it is the
10 right thing to do, make the investment, and do a great
11 job.

12 I am hoping that curve is shaped more like
13 this (indicating) where there are more good employers
14 over at the great end than employers at the bad end.
15 We don't know.

16 We have tools for each different type of
17 employer and our objective here, and you can't see this
18 on the slides, is to move that curve. Move it all the
19 way over.

20 That is what you are helping us do, to think
21 about how do we apply all of these tools more
22 effectively, how do we target enforcement activity, how

1 do we do our consultation work more effectively, how do
2 we move that curve.

3 I'm grateful for your help doing that.

4 We have tools and strategies, and they are
5 appropriate for different situations. Our job is to
6 figure out how to apply our limited resources to these
7 different strategies in the most effective way.

8 "Effective" in this case means preventing
9 injuries, illnesses and fatalities. That is the
10 challenge. That is what we think about.

11 How do we think about that, how do we apply
12 different strategies, how we mix them. Obviously, what
13 is very much on our radar screen and we appreciate your
14 help, is figuring out ways to reduce fatalities and
15 injuries from falls.

16 Let me thank you all for your great work on
17 this. You have pushed us hard. You have helped us
18 change our policies, with NIOSH, with CPWR, with a
19 number of you, we have gotten involved in what I think
20 is a very effective campaign to prevent deaths from
21 falls, and it involves all of our strategies.

22 Obviously, in terms of our inspections, fall

1 protection violations remain the number one cited
2 standard essentially when we go out.

3 As you know all too well, a few years ago we
4 changed our enforcement policy on residential
5 construction. Residential construction, we were able
6 to take some protections that we thought were less
7 protective than those required in our fall prevention
8 standards in construction.

9 We changed that in December 2010. We still
10 have some modifications in terms of how we issue
11 penalties and how we address it.

12 Right now, all construction is covered by the
13 same standard. What we find when we go out and do
14 inspections is when we see violations of a fall
15 prevention standard, we don't see a lot of employers,
16 home builders, are doing what was allowed under that
17 modification that was in place for 15 years.

18 We are finding they are not providing any
19 precautions. The vast majority of our citations, when
20 we talk about lack of fall prevention, is really this
21 fundamental no fall protection being given.

22 It is a shame we still see that. There was an

1 article in the newspaper yesterday, in the Atlantic
2 City newspaper, I can't tell you the name, but it was
3 in the aftermath of Hurricane Sandy where we are out
4 there doing inspections, mostly doing compliance
5 assistance when we see situations, getting people off
6 the roof if it's a dangerous situation, if they are
7 fixing a roof damaged by Sandy, but we also saw some
8 new construction, not affected by Hurricane Sandy.

9 What the employer said is quoted in the paper
10 as I saw the OSHA folks come in, so I told my people
11 put on your hard hats and get off the ladders. I'm
12 only paraphrasing slightly.

13 Put on your hard hats when you see OSHA
14 coming. That is obviously an attitude that we find
15 very problematic.

16 Those are the sort of people who were cited.

17 The falls prevention campaign is really taking
18 off. I think it is doing very well. I don't need to
19 give you the statistics. You have all lived and
20 breathed this issue.

21 I want to talk about how this campaign really
22 is a joint venture, it's come out of the work of this

1 advisory committee and many of the organizations that
2 you work for.

3 We are pleased with the materials. We have
4 them now in Spanish, Russian and Polish, and they are
5 coming soon in Portuguese, Vietnamese, Laotian and
6 Tagalog.

7 It's very impressive. We are just getting
8 going but we have done a lot of outreach activities, a
9 lot of inspection visits, huge number of publications
10 going out. We hope it has impact.

11 We haven't measured the impact year, but we
12 can see the materials are being distributed. We have a
13 great website with large numbers of downloads and
14 visits, in the hundreds of thousands.

15 Another thing we are pleased to see, and I
16 don't know that we can go to the bank on this yet, but
17 we have seen a decrease in fatalities from falls in
18 residential construction. This is before the campaign.

19 We announced the change in our enforcement
20 policy in December 2010. From 2010 to 2011, the number
21 of fatalities in residential construction from falls
22 decreased about 25 percent.

1 These are preliminary numbers. We are told
2 they are likely to go up a little bit but not that
3 much.

4 This reduction took place while the number of
5 workers in residential construction was flat.

6 While we are still looking at this, we think
7 it will have an impact. The point here is for us to be
8 able to save some lives.

9 We do a tremendous amount of compliance
10 assistance, getting out to those employers who want to
11 do the right thing, telling them how to do it.

12 We encourage the use of our free consultation
13 program, and anything you can do to get employers into
14 that program.

15 We far prefer to have employers use the free
16 consultation program than have us go there and issue a
17 citation, often after a worker is hurt. If they can go
18 there before we get there, before a worker is hurt, we
19 are all better off.

20 One thing we have been very much focused on
21 and I have talked about a little bit to this group is
22 looking at using data to understand exactly how we are

1 doing.

2 Researchers have taken on the task of looking
3 at OSHA inspections. It's been a little easier for
4 them to look at manufacturing, and much of this comes
5 from manufacturing. We are trying to encourage them to
6 look at construction as well.

7 We are learning a great deal. One of the
8 reasons we can learn so much is OSHA decides where to
9 go in an inspection, but a lot of our inspections are
10 based on randomly choosing the employer.

11 That actually gets to a Supreme Court decision
12 that said we can't be arbitrary and capricious, and we
13 have to make sure that all employers in the universe we
14 are interested in inspecting have an equal likelihood
15 of being inspected.

16 In other words, I can't personally say those
17 guys down the street, let's go inspect them. If we are
18 going to be looking at construction sites, plants,
19 whatever it is, we have to use a system to randomly
20 choose the employer to visit.

21 It is actually like a clinical trial a drug
22 company could use. We can test whether our inspection

1 had impact.

2 Recently, an article was published in Science
3 Magazine, which is probably the leading journal, a
4 leading academic journal, a peer review journal. This
5 is a study done by faculty at business schools who were
6 interested in what is the impact of OSHA inspections on
7 businesses.

8 The authors were from Harvard and University
9 of California Schools of Business.

10 They looked at inspections that we did in
11 California and matched employers we inspected with ones
12 we didn't, and all the same characteristics. They were
13 randomly chosen, which ones to inspect.

14 What they found was an inspection led to
15 almost a ten percent drop in injuries over the next
16 five years, the year we inspected and four years after
17 that. It resulted also in a significant savings, lower
18 Workers' Compensation cost to every employer related to
19 those injuries. There was a 26 percent reduction in
20 injury costs per employer.

21 These professors estimated that every
22 inspection saved employers about \$350,000. We should

1 be charging them for our inspections. The taxpayer
2 picks it up. It's a gift to American industry. We do
3 a very good job.

4 I would note there is some laughter in the
5 room for the transcript.

6 They looked at this question of what is the
7 impact on the economic health of the employer. There
8 are some accusations thrown around that OSHA kills jobs
9 and inspections are going to run us out of business.

10 It turns out the OSHA inspections had no
11 effect on the employer's employment situation, how many
12 workers they employed, their earnings, sales,
13 creditworthiness. In other words, we save employers
14 some money and more importantly, we prevent some
15 injuries, and we didn't do anything detrimental to the
16 employer.

17 That was one story in Science Magazine. There
18 have been two studies that have come out since then,
19 that came out in November. One was done in Washington
20 State and the other done in Pennsylvania, looking at
21 the economic health of the company, but found the same
22 thing, that OSHA inspections reduce injuries.

1 This isn't that surprising. We have been
2 saying it for a long time. It's nice to have three
3 strong academic studies saying the same thing. It ends
4 the discussion about whether or not OSHA inspections
5 actually are effective.

6 We know they are limited. We only do a
7 certain number of inspections. We can only look at
8 certain types of hazards.

9 As a particular tool, we know that works.

10 The bigger thing we are thinking of is not us
11 going into workplaces and finding violations of
12 particular standards, but changing the culture of
13 workplaces.

14 I know all of you are involved in that and
15 thinking about that all the time. That is something we
16 know has to do with safety culture, a workplace where
17 the employer, the managers, the foremen, the workers
18 all have a commitment to safety and they work together
19 to identify hazards and to fix them.

20 If the culture is there, that's important.
21 That's the number one thing to do. We have to
22 encourage that. We have information on our website

1 about injury and illness prevention programs. Our
2 consultation groups, we encourage employers.

3 We know injuries and fatalities occur where
4 there is no violation of an OSHA standard, but they
5 still need to be prevented. The way to do that is by
6 essentially embracing the injury and illness prevention
7 programs.

8 A paper program doesn't work. It seems pretty
9 obvious when you say that. A paper program doesn't
10 work. We know that from California. California has an
11 injury and illness prevention program. It's been
12 around for a long time.

13 They have a very straightforward requirement,
14 they say if an inspector arrives and you don't have an
15 injury and illness prevention program on paper, they
16 say okay, here's a citation. It's a small fine.

17 What the employer does is they download a file
18 from the Internet and poof, they have a program.
19 That's not really a program. It's a piece of paper,
20 right?

21 The Rand Corporation looked at this question
22 and they said okay, let's look at employers who have

1 been inspected. They said if you have been cited for
2 not having a written program, what's the impact on your
3 injury rate next year.

4 Needless to say, there is no impact. Just
5 downloading the piece of paper doesn't change what's
6 going on in terms of safety.

7 The other thing is if you start in a program
8 but you didn't do the components, and the key ones, did
9 you do training. If they cite you and you say you have
10 the paper, you started the program, but you haven't
11 trained your workers, you get a citation for that, and
12 you have to train them. You have to start that.

13 It turns out that has a huge effect.
14 Altogether, if there is a 26 percent reduction, and if
15 you didn't train and then you start the training as a
16 result of getting a citation, you reduce injuries by 40
17 percent.

18 We know it has an impact if it's done right.
19 That is what we want to encourage employers to do.

20 What we are very much focused on is this
21 question on incentive programs. I know you all have
22 thought about this a little bit and I would love your

1 thoughts on this as we go on.

2 I don't think this works in workplaces. The
3 corner store, if you are the person who buys the right
4 ticket, it works for you.

5 The idea that you get a small incentive for
6 not reporting an injury, we think that is
7 counterproductive.

8 This is a discussion we are having with all of
9 our stakeholders and we are eager for your input.

10 We have seen lots of programs where workers
11 were given a bonus, because no one has been injured
12 over a certain period of time. It makes sense. They
13 want a chance to be in the lottery for anything from a
14 nice jacket to a car. Or everybody is going to get
15 like a pizza dinner during the week if no one is
16 injured.

17 There is actually no evidence that people work
18 more safely as a result of that, that some future game
19 will change the way you behave today.

20 It also says control of the workplace,
21 preventing the injuries is in the control of workers.
22 If they just act safely, be safe, there is no real

1 incentive to get rid of the hazards. We know hazards
2 have to be gotten rid of.

3 What this does do and we see plenty of
4 evidence of this, it encourages workers not to report
5 injuries because they want to participate in the
6 incentive. The incentives can be small.

7 We heard one report where workers were told if
8 no worker is injured, all the contractors and
9 subcontractors, in three months, everybody gets a
10 month's bonus.

11 Let's say you are two and a half months into
12 this, and you cut your hand. Are you going to report
13 that? All of your co-workers are going to lose a
14 month's pay?

15 You have to essentially be dead for that to be
16 reported as far as I can tell.

17 (Laughter.)

18 DR. MICHAELS: This is a serious problem. We
19 obviously want to encourage employers to incentivize
20 the right behavior and deal with hazards and have
21 training.

22 There are things you can do to incentivize and

1 you can do it well. It involves making the place safe.

2 It's very important to note that reporting the
3 injury is a protected activity. One of the ways
4 employers learn about the existence of hazards is a
5 worker is injured and the injury gets reported.

6 If an injury isn't reported, that leads to the
7 inability of the employer to identify hazards.

8 We don't care about reporting for reporting
9 sake. We get a very small sample of the country's OSHA
10 logs. There are various tools for employers and
11 workers to use.

12 We feel very strongly employers should
13 investigate injuries, have an incident investigation
14 system involving workers, to learn what's going on in
15 the workplace.

16 If you have a system where workers are
17 discouraged from reporting injuries, we obviously think
18 that is detrimental to the health and safety of all the
19 workers there, and we think it's a violation of the
20 OSHA Act, and we need to discipline workers no matter
21 what the circumstance is, this sort of activity falls
22 under that.

1 We have seen employers who do that, they have
2 a system where you are disciplined and often you are
3 brought up on safety rules that are sort of pretext
4 saying you're being brought up on charges of lack of
5 situational awareness. In other words, you weren't
6 paying attention. The only time it ever happens is
7 when someone is injured.

8 We frown upon that sort of program, offering
9 incentives for not reporting injuries.

10 We had a situation recently in New Jersey
11 where we received anonymous complaints. We didn't know
12 who actually reported the situation. We went in there.
13 We issued a citation.

14 Right after we got there, a worker was fired.
15 The employer figured out who called us. We issued a
16 citation on that. The employer essentially ignored us.

17 We said the employer has to pay \$7,500 in back wages
18 to this employee, and he refused. The U.S. Marshals
19 then seized the black corvette of the company president
20 to pay those costs. We thought that was appropriate
21 use of your taxpayer money.

22 Anything that we do, and this is the important

1 thing to remember, we would like to remind everybody of
2 this, we level the playing field. There are many
3 employers who want to do the right thing. We certainly
4 don't want them to be at a financial disadvantage
5 competing with companies that cut corners and put
6 workers at risk.

7 What we do is important not just to protect
8 workers but to protect the responsible employers in
9 this country.

10 That is my brief discussion about where we
11 are, and I'm happy to take some questions. I know you
12 discussed some of our operations in the hurricane
13 recovery zone. We can talk about that if you would
14 like.

15 CHAIRMAN STAFFORD: Thank you very much, Dr.
16 Michaels. Do ACCSH members have any questions or
17 comments for Dr. Michaels?

18 MR. JONES: I have a couple, but I'll throw
19 you a couple of softballs here first. Could you follow
20 up on Sandy, Hurricane Sandy? We heard great things on
21 going on, but could you tell us what's going on?

22 This is the whole issue of mold and respirator

1 uses.

2 DR. MICHAELS: I haven't been following the
3 mold issue. I just heard reports. I can't tell you
4 what we are doing with mold yet. I know I've heard
5 reports.

6 In general, on Hurricane Sandy, since the
7 moment we were able to get going, once the storm
8 passed, our regional folks, Region 2, have been working
9 non-stop to respond.

10 What we have done is we deployed OSHA
11 inspectors from around the country. We have staff from
12 the area, New York and New Jersey, 10 or 12 at all
13 times from other areas.

14 We are out there going to places we think
15 workers are working. We have ties with the Army Corps
16 of Engineers, a lot of the Unions, but we also have
17 very good ties with the day laborer community.

18 A lot of this work that is being done is being
19 done by workers picked up at Lowe's or Home Depot
20 parking lots.

21 For the most part, we give advice. We get
22 people out of hazardous situations. We tell them where

1 to get equipment. We have no safety equipment to
2 share. We have been very fortunate that a number of
3 organizations have stepped up to the plate and are
4 providing donations.

5 I know the National Safety Council and the
6 American Society of Safety Engineers have really taken
7 the lead in soliciting donations from manufacturers,
8 Hunter College, ASSE Chapter in New York, and are
9 distributing them to those who don't have this
10 equipment.

11 We are doing some enforcement as well,
12 depending on the situation. We try to be everywhere at
13 once. It's difficult to do. At this point, we have
14 learned a lot from the experience, first 9/11 and then
15 Katrina, since this Administration has been here,
16 Deepwater Horizon, dealing with the tornadoes in the
17 Midwest a few years ago, knowing the clean up work is
18 very dangerous and can be.

19 Workers are often out there trying to do the
20 right thing with no equipment, without even gloves.
21 There have been a number of fatalities already,
22 electrocutions, people falling from roofs.

1 We are trying to get the word out through
2 public service announcements, English and Spanish.

3 As you know, the Secretary is up there today
4 touring some of the facilities.

5 We will have to get back to you on mold.

6 MR. JONES: I'll ask one more. Matt and I and
7 Don Pratt, we chair the health hazard work group and
8 emerging hazards. The one thing we were noticing is
9 nothing -- it doesn't seem like much can be done with
10 the whole PEL issue, or maybe there is something that
11 can be done, and you are going to let us know now.

12 I've heard you talk in the past about setting
13 up a website where you line up the PELs with TLVs and
14 maybe RELs. I've heard certain folks from NIOSH talk
15 about adding notations to the PELs in terms of when the
16 original study was done, when it was actually updated,
17 so you can inform folks who are relying on this to
18 protect workers.

19 Is there any movement on that?

20 DR. MICHAELS: There is. We are working with
21 ACJ, which is a private organization, to make sure we
22 could use their materials in the way we want to.

1 We are actively doing that. We hope soon to
2 be able to actually get that out to the public. We
3 think having a place where you could compare PELs and
4 other occupational exposure limits would be very
5 useful.

6 It doesn't solve the big problem, which is
7 most of our exposure limits are out of date or missing.
8 We are gathering information on that. We are open to
9 comments, suggestions, to think about this.

10 I'm an optimist. I think there is something
11 we can do. I'm just not sure what that is yet.

12 CHAIRMAN STAFFORD: Any other questions from
13 members? If not, I have a couple.

14 David, we also have an I2P2 work group that
15 has been working on construction issues. We continue
16 to plug along as the standard is still held up in
17 SBREFA.

18 Do you have any insight for us?

19 DR. MICHAELS: I have nothing new to report.
20 We are developing materials and doing other things. We
21 hope to start that process again soon. It has sort of
22 been paused.

1 CHAIRMAN STAFFORD: In the meantime, we have
2 decided we will continue to regard the deliberations
3 about I2P2 and how to make that work.

4 DR. MICHAELS: That is great. We should be
5 doing that whether or not there is a standard. It's
6 the right thing to be doing. That's what we are doing.

7 CHAIRMAN STAFFORD: We have also been
8 developing a checklist, some procurement language
9 potentially, that we could use and work with on OSHA
10 hopefully down the road if we get to the point where we
11 have something final to present to the Agency.

12 In our work group discussion yesterday, in the
13 outreach and training work group and in our main
14 meeting this morning, we had some discussions with Dr.
15 Payne about our views and made some recommendations
16 about how we could take a look at the outreach program
17 for the construction sector.

18 Those recommendations have been made and we
19 need to follow up with you and your office at some
20 point about how we may go about pursuing some of those
21 recommendations that have come out of this committee.

22 DR. MICHAELS: I look forward to reading them

1 and meeting with you.

2 CHAIRMAN STAFFORD: I appreciate that. For
3 me, I would like to personally thank you for OSHA's
4 commitment both in time and resources that you have put
5 into the fatalities campaign. It has been really
6 great. The work that OSHA has done to move this
7 forward, we all appreciate that very much.

8 DR. MICHAELS: I want to thank you,
9 personally, Peter, and the rest of you, because I think
10 this has really been a tremendous collective effort.

11 This isn't OSHA's campaign. It is a campaign
12 for all of us.

13 CHAIRMAN STAFFORD: One last thing, and we
14 started at the last meeting, David, of putting
15 together -- I'm going to take it over as chair and try
16 to get more involved -- in the surveillance discussion.

17 We had BLS come in and tomorrow we will hear
18 about the new OSHA data system.

19 I think you said it earlier in your
20 presentation, I would like to figure out how this work
21 group or ACCSH as a full body and not just our work
22 groups could work with OSHA more on figuring out how to

1 target construction inspections. I'd like to have
2 separate conversations with others around this table.

3 We hear this all the time. We had a small
4 employer call into our I2P2 work group yesterday. As
5 we had gone through our deliberations, we brought large
6 employers in to talk to us, since they say the
7 components of an I2P2 standard are no big deal to us,
8 we do all these things anyway, and reinforced elements
9 that we all view would be in an I2P2 standard.

10 In fairness and full disclosure, getting all
11 perspectives, we had a small employer call in yesterday
12 to raise with us what their concerns would be as a
13 mid/small sized employer with a standard.

14 You hear this all the time. One of the main
15 concerns that Shannon pointed out, a good employer
16 trying to do the right thing, this is just one other
17 layer of stuff that I have to do, and a lot of my
18 competition isn't doing anything.

19 It just seems to me as you listen to these
20 kinds of conversations about good employers not wanting
21 regulation because it's a burden on them, the whole
22 purpose of these regulations is to get to the bad

1 employers that in some way, even with limitations on
2 how you have to go about satisfying the Dodge data to
3 get to the OSHA inspection -- there seems to be some
4 way we need to figure out how we can do a better job of
5 targeting construction inspections.

6 DR. MICHAELS: I agree. I think we have to be
7 creative. The world is changing rapidly. There are
8 new data cross sourcing tools and techniques that we
9 could be thinking about that may help us to learn, not
10 from let's say traditional sources like the Dodge
11 reports, but maybe from photographs or places where
12 food trucks are going.

13 There are lots of things we should be thinking
14 about that might help us get to the place we need to
15 go.

16 Any advice you can give us on that would be
17 great.

18 CHAIRMAN STAFFORD: We will continue to work
19 on that. I think it is important for us to do.

20 Any other questions or comments?

21 MR. JONES: Can I follow up on that statement?
22 You said data cross sourcing.

1 Your communications efforts since you have
2 been has been fantastic, right, the website, you are
3 getting a lot of hits.

4 As an epidemiologist, a man who likes
5 statistics, are you looking at your website hits and
6 these downloads, looking at demographics?

7 DR. MICHAELS: Not as much as I'd like to. We
8 don't know who is using our websites. We'd like to
9 figure out how we could do that. We know, for example,
10 a sizable portion of website hits come from mobile
11 phones.

12 If you look at our website, it isn't really
13 amenable to reading on a mobile phone. It works fine
14 on a personal computer. We know we have to think about
15 ways to reach a changing population. The population is
16 getting younger. It speaks different languages. It
17 gets information differently.

18 My kids use YouTube to learn how to do things.

19 I wouldn't use YouTube as an instruction manual, but
20 they use it all the time.

21 We have to think differently. We need help
22 doing that. There are limits to what we know, but I

1 think there are some people in this room and some
2 organizations that are probably thinking about it, if
3 you want to share that with us.

4 Obviously, that is one of our challenges.
5 That is why we have advisory committees.

6 MS. DAVIS: First of all, I just want to go on
7 record complimenting Region 1 that we have been working
8 with really closely. We meet quarterly now with OSHA,
9 the Attorney General, the Health Department, to
10 coordinate efforts. It has been terrific.

11 They have done some terrific outreach to
12 workers in the Anover area, and had to turn workers
13 away from training, had to close the doors because of
14 that level of response.

15 I just really want to compliment them and
16 thank OSHA for their cooperation.

17 One of the issues we haven't talked about here
18 but in Massachusetts, as you know, we have done a lot
19 of work on young workers under age 18.

20 The last two years, we have expanded our scope
21 of interest to the 18 to 24 year old's, which is how
22 Canada and other places define young workers, less than

1 24.

2 If you look at the injury data, they do in
3 fact have the highest injury rate, fatal injury rates.

4 What we are seeing is really dramatically high rates
5 among Hispanic workers in that age group.

6 I just wanted to put that out. Inexperienced
7 18 to 24 year old's, the 18 year old's look more like
8 they are 16 to us. There are tremendous efforts,
9 certainly in Massachusetts, in outreach to community
10 colleges, high schools.

11 DR. MICHAELS: We are certainly aware of that.

12 We have a challenge going on. Challenge.gov. It's a
13 way to involve app developers and others in producing
14 materials for the public good.

15 We actually have a young worker smart phone
16 app challenge, which actually will close tomorrow. We
17 have a contest, \$35,000 in prize money up there.

18 You can see some, you can actually vote on it.

19 One of the prizes is for the app submission that gets
20 the most public votes. We have a great team of people
21 who are the judges, ranging from John Howard and I to
22 Arne Duncan, who is the Secretary of Education, to the

1 Netbusters. We will see where it goes. We know these
2 are workers we want to reach.

3 MR. CANNON: I want to follow up on what Pete
4 said as far as how you improve targeting. During our
5 last meeting, we had a presentation, I can't recall the
6 authors or the gentleman, but they were talking about
7 the Dodge report or what is now called the McGraw-Hill
8 construction report.

9 They said they were going to look into and
10 implement a pilot program where they were looking at
11 smaller scale projects to target small employers.

12 I guess my question is could you not balance
13 that out or use that same system for your consultation
14 services.

15 DR. MICHAELS: I'm not sure why we couldn't.

16 MR. CANNON: There may be small employers that
17 are not aware of your consultation program. This would
18 be a way to get out to those. You said there are some
19 that intentionally disregard or they lack knowledge or
20 resources.

21 DR. MICHAELS: One thing we do is testing
22 whether or not sending a letter talking about our

1 consultation program and essentially saying we may
2 inspect you, if that has an impact. We are actually
3 going to do random experiments.

4 We do have a couple of new fact sheets on
5 hurricane response and clean up that we have in the
6 back. I think they are quite good. The number one
7 hazard in previous hurricanes was heat and two were
8 sticks. We were used to dealing with the bayou's and
9 everglades. That is not the issue in New York and New
10 Jersey.

11 We have new fact sheets out. I think they are
12 very good. There are copies in the back or you can
13 download them and circulate them.

14 CHAIRMAN STAFFORD: Again, Dr. Michaels, thank
15 you. I just want to acknowledge Jim Maddux and his
16 staff, doing a terrific job.

17 Just two meetings ago, we had talked about a
18 backing operations website, and yesterday, we saw one,
19 with Paul Bolon and Meg Smith, so quite a turn around
20 in one year that we made a recommendation, and today,
21 we are seeing the website live. We appreciate it as a
22 committee.

1 DR. MICHAELS: I appreciate that. I think our
2 staff is doing a great job, and I see Dr. Branche is
3 here from NIOSH, and I want to thank you as well. I
4 think the collaboration has been very effective.

5 CHAIRMAN STAFFORD: Thank you. I think Sarah
6 would like to say something off the record.

7 (Discussion held off the record.)

8 CHAIRMAN STAFFORD: Back on the record.
9 Walter, the other motion, right?

10 M O T I O N

11 MR. JONES: The other motion, a variety of
12 construction uses have been described for engineered
13 nano materials, current hazard communication practices
14 do not currently require any precautionary labeling or
15 safety datasheet messages for engineered nano
16 materials.

17 I move that ACCSH recommend that OSHA
18 determine if the GHS rule and labeling of chemicals
19 does address engineered nano materials, if it does, we
20 ask OSHA brief us at a future ACCSH meeting.

21 If it does not, ACCSH recommends that OSHA
22 pursue guidance and ensure workers and employers can be

1 aware of when they are working with engineered nano
2 materials.

3 The purpose of the motion is to try to get
4 some awareness of workers who are working around nano
5 materials. It's not really currently required, as we
6 understand it at least, in safety datasheets.

7 CHAIRMAN STAFFORD: That's a lot for one
8 motion. Sarah?

9 MS. SHORTALL: It looks okay.

10 (Laughter.)

11 MS. SHORTALL: I think it's very interesting.

12 CHAIRMAN STAFFORD: I'm going to ask Sarah to
13 read that again.

14 MS. SHORTALL: A variety of construction uses
15 have been described for engineered nano materials.
16 Current hazard communication practices do not currently
17 require any precautionary labeling or safety datasheet
18 messages for engineered nano materials.

19 Therefore, ACCSH recommends that OSHA
20 determine if the GHS, globally harmonized system of
21 classification and labeling of chemicals, addresses
22 engineered nano materials, if it does, ACCSH recommends

1 OSHA brief ACCSH at a future meeting.

2 If the GHS rule does not, ACCSH further
3 recommends that OSHA pursue guidance and regulatory
4 approaches to ensure workers and employers can be aware
5 of when they are working with engineered nano
6 materials.

7 MR. JONES: Correct.

8 CHAIRMAN STAFFORD: Do we have a second?

9 MR. HERING: Second.

10 CHAIRMAN STAFFORD: Any discussion?

11 (No response.)

12 CHAIRMAN STAFFORD: All those in favor,
13 signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN STAFFORD: Opposed?

16 (No response.)

17 MS. SHORTALL: Would someone tell me --

18 CHAIRMAN STAFFORD: What you just read?

19 (Laughter.)

20 MS. SHORTALL: Who made the motion?

21 MR. JONES: I did.

22 MS. SHORTALL: You seconded it?

1 MR. HERING: Yes.

2 CHAIRMAN STAFFORD: Walter, is that it?

3 MR. JONES: That's it.

4 CHAIRMAN STAFFORD: Thank you.

5 MS. SHORTALL: I would like to enter some
6 things into the record. As Exhibit 15, improved health
7 hazards/emerging issues/prevention through design work
8 group report from the November 27, 2012 meeting.

9 As Exhibit 16, introduction to nano materials
10 and occupational health presented by Kristen
11 Kulinowski, Institute for Defense Analysis, Science and
12 Technology Policy Institute.

13 As Exhibit 17, engineered nano particle
14 exposure and construction PowerPoint by Bruce Lippy,
15 CPWR.

16 Exhibit 18, thermo degradation of organic
17 coating's handout from OSHA.

18 Exhibit 19, radio frequency exposure
19 PowerPoint, Federal Communications Commission.

20 Exhibit 20, OSHA update PowerPoint by David
21 Michaels, Assistant Secretary.

22 CHAIRMAN STAFFORD: Thank you, Sarah. Next is

1 our last work group report for the day, and that is the
2 diversity work group. Kristi and Jeremy, however you
3 want to handle it, it's up to you.

4 DIVERSITY WORK GROUP REPORT

5 MR. BETHANCOURT: Mr. Chairman, I recognize
6 you have never had a better overview from a work group
7 before, but we saved the best for last.

8 CHAIRMAN STAFFORD: That's right.

9 MR. BETHANCOURT: That's what you told me to
10 say.

11 Mr. Chair, we have several co-chairs. We have
12 Laurie Shadrick, myself and Kristi Barber. We welcomed
13 the group.

14 We had a presentation by Kathleen Dobson of
15 Alberici Constructors, for NAWIC, National Association
16 of Women in Construction, and a participant of women in
17 construction.

18 NAWIC's areas of concern are sanitary
19 facilities, PPE, ergonomics and tools, harassment,
20 hostility in the workplace and training.

21 They desire some form of alliance with OSHA to
22 help them address these items.

1 Pete Stafford asked how we could combine the
2 NAWIC goals with OSHA.

3 Letitia Davis asked if it was possible for
4 OSHA to add a link on their website for people to get
5 answers on sexual harassment during that discussion.

6 A discussion ensued about how that might be
7 related to safety and health. Several members
8 concluded that it may be a catalyst for workplace
9 violence, and perhaps that would permit OSHA to provide
10 a link as a resource to the EEOC and Office of Federal
11 Compliance Plans.

12 No consensus or recommendation was made,
13 however, and the discussion ended as we then
14 transitioned into a discussion about the new website
15 and materials.

16 It has been discussed for several years at
17 ACCSH about the need for some sort of information for
18 women in construction.

19 We were provided a draft fact sheet for review
20 at that meeting. There was really only one issue that
21 the group found as a whole that caused any serious
22 discussion, and that was where it says "ACCSH

1 recommends sanitary facilities," et cetera, that it
2 would be better received if it were actually to say
3 OSHA recommends or ACCSH and OSHA recommends.

4 There was a considerable amount of discussion
5 and confirmation that was the consensus from the group.

6 Letitia Davis pointed out that the PPE course
7 under the draft sheets seemed very negative and there
8 was a discussion about whether the document itself was
9 too negative and it should be providing solutions for
10 empowerment for the reader to be able to know there are
11 solutions.

12 There was discussion about the draft in its
13 current state.

14 There was consensus that there was not enough
15 time to really put comments together because the group
16 was only just presented the information, and OSHA asked
17 the group to provide comments on the draft sheet and on
18 the draft website.

19 It was decided that ACCSH members should
20 review the material, including the ability to go
21 on-line, on the computer, and access the website to be
22 able to see all the links on the new proposed site in

1 its draft form.

2 Then we can compile comments and provide
3 submission of comments to the work group chairs, and
4 then we would provide that information as a whole to
5 the Chairman, Mr. Stafford.

6 It was also discussed we should think about
7 having a conference call of some sort to be able to
8 have further discussion on the comments that we all
9 have as a group.

10 Sarah Shortall asked if the NIOSH website
11 addressed hazardous chemicals and reproductive health
12 issues. Matt Gillen said they did not and there was
13 concern if you have something specific towards women,
14 it would seem exclusionary or might be a way to have
15 the wording to where it was excluding women from a
16 certain task. There was concern about having that in
17 there.

18 After all the discussion that we had, there is
19 a recommendation that was actually made during the work
20 group. It was a recommendation made by you, Pete, and
21 seconded by Chuck, to have a motion based on changing
22 the language within the document, for the fact sheet to

1 actually add OSHA. Then it is going to be a lot better
2 received by industry if it actually has OSHA on there
3 saying it is a best practice.

4 As we continued, Danezza Quintero explained
5 the web page is in its draft form, and they are
6 continuing to work on it. They provided several
7 documents that we are going to submit to be entered
8 into the record on what it currently looks like.

9 Laurie Shadrick asked that ACCSH members be
10 provided the opportunity to see all the links, and as I
11 said, that is something we did discuss, that we want to
12 be able to access the tabs that are inside the web
13 page.

14 It will be important for all of us to be able
15 to see how the flow of the web page works so we can
16 actually provide good feedback. If we don't feel it is
17 going to flow well, perhaps the public may not feel it
18 flows well.

19 CHAIRMAN STAFFORD: This was part of the
20 discussion yesterday, but in terms of flow, are we
21 talking about the work group would see a soft launch of
22 the website?

1 MR. BETHANCOURT: That is what I think we
2 discussed. I think that was the intent of what Laurie
3 was saying, we want to be able to see what's behind the
4 tabs, not just getting a paper that says that is what
5 it is, actually being able to access it and get a feel
6 for what it is.

7 I do believe there is a website address that
8 we might be able to access. I know that is a request
9 she had made.

10 During new business, Scott Schneider talked
11 about the Latino Action Summit and if there was
12 anything similar planned in the future, Director Maddux
13 said there was nothing planned on a national level but
14 there have been other activities and potentially
15 regional offices were conducting similar meetings.

16 Mr. Schneider asked if there was a strategic
17 plan to help immigrant workers, and he commented that
18 OSHA provided good information to foreign workers for
19 clean up efforts after Hurricane Sandy.

20 The meeting adjourned at 4:00 p.m.

21 We do have a motion to make based on the work
22 group's consensus. I can make that now or you can ask

1 for approval of the minutes.

2 CHAIRMAN STAFFORD: Let's approve the minutes
3 and then we can get into the motion.

4 MR. GILLEN: I have a question. I'm trying to
5 remember exactly what the discussion was yesterday with
6 Sarah. My recollection is she asked if there was a
7 page related to reproductive hazards for women.

8 MS. SHORTALL: I broadened it. I said
9 reproductive health hazards, including effects on men
10 and women and their ability to conceive children,
11 miscarriage and developmental health effects.

12 MR. GILLEN: I'm sure there is information
13 such as that on our website somewhere. I'm not sure we
14 have a topic page. I can go back and look.

15 MR. BETHANCOURT: I can adjust our minutes to
16 reflect that?

17 MR. GILLEN: Yes, or we can do it next time.
18 I don't want people to be confused by that in the
19 future. It looks like we're saying there is no
20 information whatsoever on hazardous chemicals and
21 reproductive health hazards.

22 MS. SHORTALL: You said you didn't know at

1 this point what you had.

2 MR. BETHANCOURT: That would be a better
3 reflection of it. Matt, what would you request we
4 enter in there?

5 MR. GILLEN: I'm going to say I would get back
6 to the group or something.

7 MR. BETHANCOURT: I will make that change.

8 CHAIRMAN STAFFORD: Kristi, do you have
9 anything to add to the report?

10 MS. BARBER: One thing that Jeremy didn't say
11 is that OSHA requested that we get back to them in a 30
12 day time frame because they want to get these items
13 out.

14 What we would like to propose is that if we
15 can get your comments back in a timely fashion, we will
16 try to get a teleconference planned so we can discuss
17 the comments, and then submit that to OSHA.

18 CHAIRMAN STAFFORD: Just so I understand the
19 clarification. Are we commenting on the hard copy of
20 that website we saw or is OSHA planning on doing a soft
21 launch so the committee can look at it and then comment
22 based on what they actually see on the website?

1 MS. QUINTERO: To provide a Word document. I
2 already provided the links. It will be a Word
3 document.

4 MS. SHORTALL: That is the women in
5 construction web page and the women in construction
6 fact sheet; right?

7 MS. QUINTERO: That's correct.

8 CHAIRMAN STAFFORD: Is there a commitment on
9 DOC's end on when we will see a soft launch of the
10 website after the 30 days and the comments are
11 received? When could we expect to look at a soft
12 launch website before it goes live?

13 MR. MCKENZIE: (Inaudible.) We are going to
14 continue to develop it. If the committee has
15 additional suggestions, we can take a look at them.

16 MS. SHORTALL: Laurie is not here today.
17 Laurie has a special interest in holding the
18 teleconference meeting after comments come in so the
19 work group could discuss them.

20 She was worried that it would be difficult to
21 schedule a teleconference in the middle to end of
22 December because of people's holiday schedules.

1 I spoke with Dean. Dean says 30 days is the
2 goal, but he understands because of the timing, it may
3 have to spill into the beginning of next year.

4 CHAIRMAN STAFFORD: Thanks, Sarah.

5 MS. BARBER: I would also like to ask Danezza,
6 I believe Laurie was interested in what was behind each
7 of the tabs on here.

8 MS. QUINTERO: Yes, I will be sending
9 everybody that.

10 MS. BARBER: Thank you.

11 CHAIRMAN STAFFORD: We are committing to get
12 comments back to OSHA within 30 days more or less. We
13 are independently feeding comments to OSHA or they are
14 going back to the co-chairs who are in turn are giving
15 all the comments collectively to OSHA?

16 MS. SHORTALL: People who have comments should
17 be giving them to the co-chairs.

18 CHAIRMAN STAFFORD: They will feed them to me
19 and I'll send them to Danezza.

20 MS. SHORTALL: Right.

21 M O T I O N

22 CHAIRMAN STAFFORD: We have the work group

1 report. I need a motion to accept.

2 COMMITTEE MEMBER: Move.

3 MR. JONES: Second.

4 CHAIRMAN STAFFORD: All those in favor,
5 signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN STAFFORD: Opposed?

8 (No response.)

9 CHAIRMAN STAFFORD: Thank you. Danezza, I
10 will talk to you later and we will figure it out.

11 We are a little bit ahead of schedule. Never
12 mind. Jeremy?

13 M O T I O N

14 MR. BETHANCOURT: The motion is ACCSH suggests
15 to OSHA that the wording in the OSHA fact sheet on
16 women in construction be modified to say to avoid
17 health and safety hazards, OSHA and ACCSH recommends
18 that employers provide and maintain sanitary toilets,
19 et cetera, as it is written.

20 CHAIRMAN STAFFORD: The motion has been made.
21 Is there a second?

22 It's fine if it says ACCSH. Do we want it to

1 say OSHA and ACCSH?

2 MR. BETHANCOURT: What we gathered from our
3 notes is there was no differentiation on whether or not
4 anybody had come to a consensus that ACCSH be taken off
5 but that OSHA needed to be on there. If we want to
6 have a discussion on the motion -- we didn't do that
7 yesterday.

8 CHAIRMAN STAFFORD: I think that's right, it
9 needs to say OSHA.

10 MR. BETHANCOURT: I think just OSHA.

11 MS. BARBER: I think just OSHA, too.

12 MR. BETHANCOURT: Kristi and I agree. The
13 discussion did not tell us to take out ACCSH but it was
14 pretty firm we should have OSHA. We thought we should
15 bring it here exactly as it was and let us all decide.

16 CHAIRMAN STAFFORD: I appreciate that, Jeremy.
17 Unless there is any opposition from any of the ACCSH
18 members or Sarah.

19 MS. SHORTALL: Where in the fact sheet is that
20 particular --

21 MR. BETHANCOURT: The fact sheet was a draft,
22 we didn't want to go too far into the language in

1 there.

2 MS. SHORTALL: Did you want ACCSH and OSHA?
3 This one deals with sanitary toilets, not PPE? The
4 motion just goes to sanitary toilets?

5 CHAIRMAN STAFFORD: I think they are trying to
6 make the distinction whether it's OSHA/ACCSH, and it
7 sounds like to me -- I would suggest the language just
8 simply be that OSHA recommends and remove ACCSH.

9 MR. BETHANCOURT: We don't disagree. We
10 thought we should bring it that way.

11 MS. SHORTALL: When you were talking about
12 this yesterday, you were talking about it up at the
13 front. ACCSH's name was in there but it was too bad
14 that OSHA's name was not in there. The only place it
15 appears is this one. It would only deal with
16 sanitation issues and not PPE.

17 I just want to clarify that is what you want.

18 MR. BETHANCOURT: There is no standard getting
19 through right now.

20 CHAIRMAN STAFFORD: Frame the motion one more
21 time.

22 //

1 M O T I O N

2 MR. BETHANCOURT: This is the new motion.
3 ACCSH suggests to OSHA that the wording in the OSHA
4 fact sheet on women in construction be modified to say
5 at the appropriate location to avoid health and safety
6 hazards, OSHA recommends that employers provide and
7 maintain sanitary toilets, et cetera.

8 CHAIRMAN STAFFORD: What is "et cetera?"

9 MR. BETHANCOURT: The paragraph.

10 CHAIRMAN STAFFORD: We have a new motion and a
11 new second. Any more discussion?

12 MS. QUINTERO: (Inaudible.)

13 CHAIRMAN STAFFORD: Thank you. We have a new
14 motion and a second. If there is no more
15 discussion -- Ben?

16 MR. BARE: When you put this into the record,
17 we would like to be sure it has the word "Draft" on it.

18 MS. SHORTALL: Yes. I think we will just have
19 to darken it.

20 CHAIRMAN STAFFORD: We have a motion and a
21 second. Any more discussion?

22 (No response.)

1 CHAIRMAN STAFFORD: All those in favor,
2 signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN STAFFORD: Opposed?

5 (No response.)

6 MS. SHORTALL: Exhibit 21, the diversity work
7 group report from the November 27, 2012 meeting.

8 Exhibit 22, issues affecting women in
9 construction, OSHA alliance PowerPoint.

10 Exhibit 23, proposed agreement establishing
11 the lines between OSHA and NAWIC.

12 Exhibit 24, OSHA and NAWIC safety and health
13 alliance plan information sheet.

14 Exhibit 25, OSHA and NAWIC alliance background
15 document.

16 Exhibit 26, National Association of Women in
17 Construction facts.

18 Exhibit 27, Women in Construction fact sheet,
19 draft document, developed by the Diversity Work Group.

20 Exhibit 28, draft Women in Construction web
21 page.

22 Exhibit 29, OSHA draft Women in Construction

1 fact sheet.

2 CHAIRMAN STAFFORD: Thank you, Sarah.

3 I don't know who signed up but it is time for
4 public comment. Is there a list or an order?

5 PUBLIC COMMENTS

6 CHAIRMAN STAFFORD: Chip Pocock was the first
7 to sign up.

8 MR. POCOCK: Thank you, Mr. Chairman, members
9 of the committee. My name is Chip Pocock. I'm with
10 Volker Companies. We are based in North Carolina. I
11 am a certified crane operator and certified practical
12 examiner with more than 30 years of crane and rating
13 experience.

14 I am here today representing the Specialized
15 Carriers and Riggers Association. SCRA has 1,300
16 members in 42 countries. I think it is important to
17 point out that 75 percent of those numbers are
18 considered small businesses.

19 Most importantly, I was a member of the Crane
20 and Derrick Advisory Committee and spent 13 months
21 meeting once a week in this very room, usually sitting
22 over there where Kristi does.

1 I ran into Kristi yesterday afternoon and told
2 her I'm from the Washington, D.C. area originally. I
3 remember coming across the 14th Street Bridge for the
4 first meeting and thinking about the impact of the work
5 I was going to do on the safety and health of employees
6 in this country and what an honor that was. I commend
7 everybody here at this table for that same commitment.

8 There has been a lot of talk about the intent
9 of CDAC. I can tell you what the intent was because I
10 was there. I lived it. There are minutes from those
11 meetings. What they miss is the interaction, the body
12 language, and the back and forth, both on and off the
13 record that it took to develop that standard in a
14 year's time.

15 I would point out that the Crane and Derrick
16 Advisory Committee was made up of not only employers,
17 employee representatives, the operating engineers, the
18 iron workers, manufacturers, OSHA, all stakeholders
19 were involved in that process.

20 What I want to talk about today is the type
21 and capacity issue. Mr. Maddux said this morning very
22 eloquently, it is an issue. It's a big issue.

1 There is a cost impact to small business that
2 was never anticipated by the SBREFA panel after the
3 CDAC document was signed off on by this committee and
4 by OSHA.

5 The only accrediting body at that time was the
6 National Commission for Certification of Crane
7 Operators, and I think we literally plucked language
8 from ASAB 30.5 as far as testing the certification
9 requirements, which is basically where the type and
10 capacity language came from.

11 I don't think there was ever an intent -- in
12 fact, I'm sure there was no intent for it to be taken
13 to the degree the Agency says they are intending to
14 take it, where the operators be tested on every type
15 and capacity crane they operate.

16 Just to give you an idea, we did an internal
17 study in our company prior to a small business
18 roundtable meeting several months ago.

19 Currently in our company, we estimate it costs
20 about \$2,750 to provide an accurate amount of training
21 and get an employee tested and get him certified both
22 on a written and practical exam.

1 That is essentially a core exam, four
2 specialty written exam's, and the three mobile crane
3 exam's that our company has to have.

4 If we take that to the degree where we have
5 the type and capacity testing for all 70 to 80
6 operators that we employ, those numbers go to about
7 \$19,500 per employee for that same testing.

8 We are talking about around \$193,000 to
9 \$194,000 annually to somewhere around \$1.350 to \$1.5
10 million depending on the number of operators.

11 I would like to say those numbers do not
12 include the cost for assembly, dis-assembly, or moving
13 machines to and from, whether it is our yard or a site
14 location where testing might have to occur.

15 Jim's PowerPoint this morning showed a number
16 of crawler cranes, the largest of which is the new 3000
17 tonner that they rolled out this Spring. Several
18 members of our company were there because we are the
19 largest owner of crawler cranes in the United States
20 and North America.

21 One of the things you don't see, at the end of
22 the photograph there, the smallest crane you see is

1 actually holding something, and on the pedestal is a
2 model crane, which is really illegible in the
3 photograph.

4 Jim made the comment about if you could run
5 the biggest one, if you tested on the biggest machine
6 in that photograph, you literally would be certified to
7 run all of them. Factually, that is a slight
8 inaccuracy.

9 The machine on the left is a telescopic
10 crawler, which is different from the other machines.
11 There is a little bit of a disparity there.

12 What I would say about testing on capacity,
13 I'm going to paraphrase a scenario that my good friend,
14 Bill Smith, came up with at this SBREFA meeting, and
15 that is if my daughter or son goes and gets a driver's
16 license and I put them in my Ford Focus and it has an
17 automatic transmission, they drive that vehicle for
18 five or six months, and one day they come in and they
19 say daddy, the car broke down this morning, it won't
20 start or it's out of gas, whatever, and I need to take
21 your truck.

22 My truck is an F-250 diesel with a five speed

1 transmission. It's long, big, heavy. I know full well
2 my daughter has never driven it and I point that out,
3 no, you can't drive the truck. She holds her card up
4 and says but I have a driver's license.

5 Do we allow our daughter or son to drive the
6 truck because they have the driver's license?

7 My point is the cranes that you saw in the
8 picture, a 600 ton crawler crane is a \$5 million plus
9 investment. Regardless of whether or not a guy passes
10 a written and practical exam, we as a company are not
11 going to put an operator in the seat of that machine
12 unless we are relatively sure he's not going to tear
13 our machine up and more importantly, hurt somebody
14 else.

15 That is due diligence and it is expected of us
16 morally and legally.

17 When I talked earlier about costs of testing
18 going almost to \$1.5 million, the middle class crane in
19 those pictures of 600 and 750 tons, to set up in that
20 configuration, is about 40 tractor-trailer loads of
21 counterweight, and probably a week's worth of labor for
22 five or six people just to assemble it.

1 The cost, you can see how that goes. If I
2 said okay, I have 750 ton cranes and I have to set one
3 up and I have to test 80 operators on it, that's a
4 major undertaking, not to mention the costs.

5 The other thing that I wanted to talk about is
6 if the Agency goes down the road, there are over 80,000
7 crane operators who are already certified in this
8 country who will be disenfranchised. Their
9 certification will be no good.

10 I mentioned I was on CDAC. We finished our
11 work almost nine years ago. The intent of everybody
12 who sat at that table with me, probably in 2008 or
13 2009, we would have operator certification in place in
14 this country to provide a better level of safety in the
15 construction industry, and for a lot of reasons, that
16 didn't happen.

17 Here we are two years away, and all of a
18 sudden instead of having 80,000 people already
19 certified, we are talking about having 80,000 people to
20 have to go do it all again, and the cost to the
21 employer for those people.

22 I know the operating engineers have written a

1 letter asking for relief from the interpretation. We
2 certainly support that at SC&RA, and in my company, for
3 a lot of reasons. Number one, it was not the intent of
4 CDAC, and two, it is a tremendous burden for small
5 business.

6 I'm just going to give some brief history and
7 then I'll conclude. We started certifying our
8 operators through NCCCO back in 1996, and 100 percent
9 of our operators have been NCCCO certified for quite
10 some time.

11 NCCCO is a non-profit entity that was founded
12 and formed by the industry, not by OSHA, not by the
13 manufacturers, although the manufacturers, OSHA and the
14 industry helped NCCCO develop test questions. We think
15 it is the best program out there.

16 Certainly, they don't want to see those 80,000
17 operators currently certified have to be
18 disenfranchised.

19 In closing, what I would like to see happen is
20 the committee take the opportunity to put this item on
21 the agenda for the next meeting. I don't know when the
22 next meeting is. I suspect it is late Spring or early

1 Summer. I think it is of such importance that if it
2 cannot be resolved between now and then to the
3 satisfaction of the industry and the people who helped
4 write this rule, that this committee needs to hear from
5 the industry, and I would suspect you will hear a lot,
6 if it's not satisfied.

7 Thank you for the opportunity to address the
8 committee and getting it on the agenda if we can.

9 CHAIRMAN STAFFORD: I appreciate that. Thank
10 you for your comments.

11 MR. GILLEN: Before you go, could you clarify
12 what you are asking, is it related to the complexity of
13 the weight of the cranes?

14 MR. POCOCK: I think the misnomer is there is
15 language in the standard that says operators shall be
16 tested by type and capacity. The problem is there are
17 literally thousands and thousands of configurations,
18 even machines that were in the picture today. You
19 could take that 3,000 ton machine, strip it down, take
20 all the counterweight off it, and make it a 600 ton
21 crane.

22 It's very complex when you start having to

1 test on capacity. We are much more comfortable in the
2 industry testing by types of cranes versus type and
3 capacity.

4 CHAIRMAN STAFFORD: If the intent of the
5 language was type and capacity, what was the intent?

6 MR. COPOCK: I think the language probably
7 initiated from the ASAB 30 standard. The accrediting
8 agencies, NCCA, at that time, NCCCO, again, they were
9 the only certifying body out there, they looked at job
10 analysis and determined the program NCCCO has in place
11 has aspects of what is in the written examinations
12 testing a person on the different capacities.

13 He knows I'm not on a 600 ton crane, now I'm
14 on a 750 ton crane. I need to look at the load chart,
15 I need to do some other things and know what my
16 capacity configurations are.

17 If you step from one of those machines to the
18 other and graduating up the scale, you would notice
19 very little difference in the cab configurations. They
20 are the same, have the same instruments, same gauges.
21 Counterweight configurations and boom sizes are a
22 little bigger as you go.

1 CHAIRMAN STAFFORD: All right. Thanks. Rick?

2 Are you still here?

3 MR. BURNHEIMER: Good afternoon. My name is

4 Rick Burnheimer. I'm the EVP of Risk Management and

5 Environmental Health and Safety for RF CHECK.

6 For the new members, I spoke at the May

7 working group committee meeting.

8 Just a little background, RF CHECK is a

9 information technology company which has globally

10 patented a multi-layered RF safety system.

11 I have 25 years of experience in the

12 telecommunications industry. Before joining RF CHECK,

13 I was with Sprint and Nextel.

14 Today, our primary forms of communication

15 depends on massive wireless networks which support the

16 demand for all things wireless.

17 The amount of radiation produced by just one

18 of these router antennas can be several hundred times

19 that of a cell phone, and it is recognized by science

20 and in the Federal Government as being harmful to

21 humans.

22 By the very ubiquitous nature of RF wireless

1 antennas, workers are routinely compelled to work in
2 front of and in close proximity to the nation's 600,000
3 Government and commercial antennas, and that number is
4 growing rapidly.

5 The committee and its working groups have
6 expressed concern about this issue and the harm it
7 represents to its members, employers and their
8 employees and their respective communities.

9 Radio frequency radiation has been a topic of
10 discussion at both working group meetings in 2012. It
11 has been stated by the committee members want to
12 proactively address RF radiation over exposure to
13 innocent third party workers before it becomes a major
14 problem.

15 Unfortunately, for too long, it has been a
16 major problem for the thousands of workers being over
17 exposed to RF radiation on a daily basis.

18 Comments made by members of the working group
19 emphasized the fact that they were never made aware of
20 the health risks from wireless antennas.

21 One member, Bill, made the comment that in all
22 these years of approving applications for siting, not

1 once, never, has an applicant or FCC licensee disclosed
2 a health or safety issue or discussed safety measures
3 to protect the unknown exposed workers.

4 If I got this right, he estimated more than 50
5 percent of the antennas in his community could expose
6 RF radiation to non-FCC licensed individuals.

7 Another committee member stated their 350,000
8 members had never been informed of the risk and
9 exposure to RF radiation that occurs on a daily basis.

10 This sentiment has been expressed by numerous
11 other labor groups including the IBW and CWA, and is
12 considered unacceptable.

13 At the working group committee meeting on
14 Tuesday, the FCC stated all FCC licensees must certify
15 they are in compliance with the terms of their license,
16 which includes protection for all individuals, not just
17 their own employees, from RF radiation exposure from
18 wireless antennas.

19 They also commented that their enforcement
20 mechanism to ensure compliance is complaint based.
21 They only look into violations when they receive a
22 complaint.

1 As one of the committee members pointed out,
2 in most instances, workers are unaware of the risk of
3 radio frequency radiation over exposure and their
4 accompanying symptoms, so how would they ever know to
5 file a complaint.

6 One of the things we talked about is there is
7 a two tiered safety system. The wireless industry
8 makes sure every one of their technicians goes through
9 RF training, and before they send them to work around
10 an antenna, they power it down. Think of that visual.

11 They have training and they power it down.

12 Third party workers, no training, no power
13 down, and in a lot of instances, they don't even know
14 the risk is there. They don't even know that antenna
15 is there.

16 Third party workers are exposed to excessive
17 levels of RF radiation because no effective
18 comprehensive RF radiation safety system is currently
19 in operation.

20 There are practical challenges that limit or
21 prohibit the protection of workers from RF radiation.
22 There is the impossibility or impracticality of FCC

1 licensees to have continuous 24/7 control of all
2 activities at antenna sites.

3 Mandated use of stealth antennas that prevent
4 a worker from identifying the existence and location of
5 RF radiation hazardous work sites.

6 We are aware of a major West Coast city that
7 called us up and said they had 180 applications pending
8 for cell sites. They were all approved in a stealth
9 nature, which means that is 180 more exposure points
10 that a third party worker would never know existed
11 because he can't see them.

12 Co-location of RF radiation transmitting
13 antennas result in increased RF radiation emissions
14 with no verifiable RF power down/off system.

15 Restricted access will not protect workers who
16 enter these areas to fulfill a job responsibility.

17 Warning signs have proven ineffective as they
18 are often missing, mis-labeled, or misunderstood by
19 workers.

20 I want to add something, they are not required
21 by law, they are recommended. A lot of the antennas
22 don't even have signs.

1 No national protocol exists to supply workers
2 with real time RF radiation safety information.

3 Workers who are required to perform their jobs
4 in close proximity to RF radio's and transmitters are
5 no longer trained technicians protected by the latest
6 gear and equipment, rather they are now electricians,
7 carpenters, maintenance personnel, HVAC technicians,
8 pipefitters, painters, first responders and many
9 others.

10 Ultimately, these unsuspecting workers are
11 regularly exposed to excessive levels of RF radiation
12 because there is no comprehensive radiation safety
13 system currently in operation.

14 Given the health hazards and potential
15 liability involved, the time for complacency has
16 passed. A viable RF safety program must be
17 implemented.

18 First and foremost, a national standardized RF
19 radiation safety protocol is crucial.

20 RF site owners, contractors and others should
21 be supplied with a specific FRF safety protocol to
22 ensure true worker safety. The entire system must be

1 monitored for compliance by a mutual third party to
2 avoid any conflict of interest.

3 For this to occur, those affected such as
4 employers, landlords, public entities, Government
5 agencies, the insurance industry and others, must
6 demand the deployment of meaningful tools to continue
7 to protect first and foremost the exposed worker, as
8 well as their own financial interests.

9 The risk is here, it's imminent, and unless
10 controls are implemented, it is inevitable that claims
11 will be filed by workers seeking compensation.

12 I would like to say I like the motion of
13 having OSHA and the FCC work together, but Pete and I
14 talked about the fact that the rules and regulations
15 aren't there. The FCC licensee has the obligation to
16 protect all workers. It's not being done.

17 There are numerous cell sites that third party
18 workers are being exposed to on a regular basis.

19 CHAIRMAN STAFFORD: Thank you. Any comments
20 or questions from the committee?

21 MS. DAVIS: I just have one question. Are you
22 saying these are just recommendations?

1 MR. BURNHEIMER: Just recommendations, not a
2 requirement.

3 MR. CANNON: When you mentioned a tool, what
4 are you referring to?

5 MR. BURNHEIMER: I'd have to go into a
6 commercial for my company. The foundation of our
7 company was our founder was a contractor. He was
8 unable to protect his workers. That is how we got
9 started. Nobody else out there has developed a
10 solution to this problem.

11 We all know it exists. We all know workers
12 are being harmed every day. Nobody wants to do
13 anything about it.

14 That is why we are recommending a third party
15 solution, mutual third party, similar to -- the best
16 way to look at this is look at Miss Utility, before you
17 go digging in the yard, you make a phone call.

18 What we are suggesting is before a worker goes
19 to a rooftop, they access a website that will show them
20 what the danger is, where the antennas are, what the
21 exposure zones are, and what he can do to get those
22 antennas powered down before they do work.

1 MR. HERING: We talked over lunch. What I
2 said was basically I think, and I'm trying to think in
3 my mind nationwide, I know in New Jersey we had the New
4 Jersey planning officials, which provides the training,
5 I will get this information to them so every zoning and
6 planning board in the State of New Jersey knows about
7 this.

8 We can regulate on a local basis. When I told
9 my Board members about this, they were dumbfounded.
10 Here we approved 27 sites in the last ten years, back
11 in the 1990s when it started.

12 They wanted them all camouflaged, like you
13 said, stealth, behind a billboard, a flag pole,
14 whatever.

15 I think you had some good suggestions. If you
16 can get those groups in the communities across the
17 country -- you mentioned some organizations.

18 MR. BURNHEIMER: The National League of
19 Cities, the National Association of Counties, PRIMA,
20 Public Risk Insurance Management Association.

21 MR. HERING: I think you mentioned something
22 else about the fact of what is the value of one

1 Worker's Comp claim in this.

2 MR. BURNHEIMER: ASSE, in their risk
3 management insights newsletter, it was written by Tom
4 Hague from Willis, and he quotes in there that the
5 average claim for a depression, the injury that is
6 caused by this are things like memory loss, slow brain
7 function, depression, headaches, but if you look at a
8 depression type claim, the average Worker's Comp pay
9 out is \$485,000.

10 If these landlords were made aware of this
11 issue, these landlords make between probably \$36,000
12 and \$60,000 a year, depending on their locations.

13 One of the support groups we have is the
14 insurance industry, the International Insurance
15 Society.

16 It is either the company is self-insured and
17 they are going to bear that cost or their insurance
18 company is going to bear that cost.

19 MR. HERING: I want to point out, too, in the
20 zoning world, in planning and zoning, these types of
21 installations are what we call inherently beneficial.
22 That is by statute. The reason for that is because in

1 the Telecommunications Act, you can dial 911, you can
2 dial for help, it aides the public.

3 We really can't turn them away. We can turn
4 them away for some reasons. It had nothing to do with
5 the RF.

6 Like we talked about, with new technology
7 comes a whole new wave of safety concerns if you think
8 about it. Here is one that I really believe is a
9 pretty serious one.

10 Thank you.

11 MR. BURNHEIMER: We want to work in
12 partnership with all the affected parties. We want to
13 be a partner with the wireless industry and the FCC
14 licensees and insurance industry and the landlords.

15 Wireless is here to stay. It's critical to
16 everything we do. It's going to continue to grow. We
17 just want to make sure the third party worker is
18 protected.

19 CHAIRMAN STAFFORD: We appreciate that. Matt?

20 MR. GILLEN: Based on your knowledge of how
21 telecommunications works and the antennas, you talked
22 about powering down, is that a thing people could do,

1 if people know there is radiation at a certain
2 location, and the licensee can be called and that
3 licensee would actually power down? Doesn't it affect
4 the cell phone use nearby? How well does that work?

5 MR. BURNHEIMER: They do power down for their
6 own employees. If they can do it for their own, they
7 can do it for third party workers.

8 Depending on the location of the cell site, in
9 the urban areas, in the cities, there are lots of
10 antennas. The reason there are so many is because of
11 the flow of traffic.

12 If you need to power it down to get some work
13 done and you chose an off peak hour, an evening hour or
14 something like that, you can get away with shutting one
15 end down because the traffic will just flow to another
16 one.

17 The fact that they do it for their own, they
18 can do it for third party workers.

19 CHAIRMAN STAFFORD: As a practical matter, if
20 you are a painting crew with three painters and you see
21 a sign there is an antenna, the painter can call and
22 say power this down for the eight hours I'm working?

1 MR. BURNHEIMER: They could do that. I
2 thought I heard the FCC make a comment the other day
3 that they are required to power down if asked. I
4 thought I heard him say that.

5 They can say I can't do it at peak times. If
6 you want to paint, you are going to have to do that
7 work in the evening or early morning or middle of the
8 night.

9 CHAIRMAN STAFFORD: Therein lies a lot of the
10 issues.

11 MR. GILLEN: The first level is awareness.
12 I'm just wondering if you know of any materials either
13 created by the insurance industry or others about
14 awareness of this whole third party or inadvertent
15 exposure?

16 MR. BURNHEIMER: I would say most of the
17 articles -- we have a couple written by the gentleman
18 from Willis. He has done two now on the topic. I have
19 had articles printed in Public Risk Magazine. One in
20 Risk Management Magazine. There are things out there,
21 articles out there you can find. If you send me an
22 e-mail, I can send you some of those articles.

1 MR. GILLEN: Okay.

2 CHAIRMAN STAFFORD: I appreciate it. Your
3 statement is on the record. We will continue to try to
4 work on this with the FCC and OSHA. I have a feeling
5 we will be seeing you again. Thanks.

6 MR. BURNHEIMER: We are always available.

7 CHAIRMAN STAFFORD: Thank you.

8 Last but not least, Graham? We should have
9 put you after Chip since I'm sure you are interested in
10 talking about the same issue. Graham Brent is a friend
11 and colleague from NCCCO. Graham?

12 MR. BRENT: Thank you, Mr. Chairman, members
13 of the committee. It is my fault for signing up late.

14 I recognize it is late in the day, so I'll keep my
15 comments brief and hopefully on point.

16 My name is Graham Brent. I'm Executive
17 Director of the National Commission for the
18 Certification of Crane Operators. As you have already
19 heard today, we are a non-profit organization. We were
20 set up in 1995 by the industry to provide a
21 certification program for crane operators. We have
22 since expanded that significantly.

1 We were recognized by Federal OSHA in 1999 as
2 providing certification that met the requirements of
3 the standards, and we have been accredited since 1998.

4 Since that time, we have issued 125,000
5 certifications. We currently provide about 15,000
6 certifications a year. I provide that data as an
7 introduction to these remarks because there are three
8 other certification programs.

9 We constitute still 90 percent of the market,
10 so that means some of the issues that we have on the
11 table still in implementing aspects of this
12 certification rule affect NCCCO certificates much more
13 than they might some of the newer organizations that
14 since DCAC met have arisen.

15 We are a very strong proponent, as you might
16 imagine, of the rule that was developed by CDAC. I
17 think as this committee knows, this whole thing was
18 generated from ACCSH. It was a proposal by ACCSH to
19 OSHA. It was promulgated through negotiated
20 rulemaking.

21 To the point, I must say over the last several
22 months we have been working very closely with Jim

1 Maddux and his team to try to resolve some of these
2 issues. All credit goes to that team for being
3 prepared to discuss these issues.

4 On some of these, we have reached -- I don't
5 want to use the word "impasse" -- some of these have
6 been a tricky process, but we have seen progress.

7 There has been a letter of interpretation, as
8 you heard this morning from Mr. Maddux, on
9 re-certification. We think that was exactly the right
10 decision.

11 There has been a clarification of the
12 difference between testing on the one hand and
13 certification on the other.

14 There has also been a clarification that
15 testing by capacity, which is the issue you have heard
16 about, as well as by type, need not necessarily be on
17 the practical exam, but it can be on the written exam.

18 That is an enormous relief in some areas.

19 Still, and this is the "but," we are still
20 hearing as a certification body and we are a service
21 organization to the industry, that there are still
22 strong concerns. This concern comes not just from one

1 sector of the industry, it is across the board.

2 This is a labor, management, manufacturer, and
3 insurance issue. Every single one of those groups has
4 protested aspects of this rule and still do.

5 The residual issues are that despite the
6 relief we have gotten in some areas, this could still
7 result in additional practical exam testing.

8 We are also very concerned about even written
9 exam testing because any cost impact that might have
10 would be over and above what OSHA originally intended
11 or planned for.

12 There are concerns not just about the cost of
13 additional practical exam testing but also as you have
14 heard from Chip earlier, the availability of that
15 equipment. In some cases, it simply isn't available.
16 It's cost prohibitive to assemble and use for testing.

17 Some of the interpretations from the FAQs you
18 have heard about also are problematic. I think it is
19 question 21, and I'm paraphrasing, if an operator is
20 certified on a 100 ton crane, can he run a 150 ton
21 crane. The answer is no. We don't have any data that
22 OSHA is relying on to make that determination.

1 In fact, the evidence on record is actually
2 quite to the contrary. The Power Crane Association is
3 on record as saying they don't believe capacity itself
4 is a determinant of a change in skill set, but if
5 capacity has to be factored in, then it should be about
6 700 tons wide, because at those points, that is the
7 break point where the skill set does change.

8 As you heard from Chip earlier, a 600 ton
9 crane can become a 3,000 ton crane. The actual control
10 system is identical, it doesn't change. The cab is
11 still there. The operator is still sitting in the cab.

12 Capacity in many ways is a reflection, a
13 consequence of a skill set change, it's not a
14 determinant.

15 The other area we got strong concerns about is
16 what happens to everyone that was originally certified,
17 certified during the course of the 15 to 18 years we
18 have been in existence.

19 Particularly those who were certified prior to
20 this rule being published. This rule or the draft was
21 put together in about a year, as you have heard, and it
22 took about another eight years for it to get out and

1 get published.

2 There is a section of operators who were
3 certified prior to this rule being published in 2010
4 who would still be certified under the five year
5 certification they have when this portion of the rule
6 is effective in 2014.

7 Well, now they are disenfranchised because
8 they haven't been tested to the new rule by definition
9 because the new rule wasn't published yet.

10 That is a problem for a couple of reasons.
11 Those employers who proactively certified their
12 operators during that time, before the rule was
13 published, are in fact being penalized.

14 At that time there were four certification
15 bodies, all of them had been recognized formally by
16 Federal OSHA as meeting the then requirements.

17 Now what OSHA is saying is well, that was then
18 and now is now, and now is different.

19 The other thing that is quite interesting is
20 when OSHA did its impact analysis, it estimated that 60
21 percent of all the operators involved in construction
22 were already certified. It based its analysis on 40

1 percent needing to be certified going forward. Now it
2 is saying those 60 percent that were previously
3 certified aren't really certified any more. I think
4 there is a disconnect there. Having said that, we have
5 a couple of possible solutions. I don't want this to
6 be entirely negative.

7 CHAIRMAN STAFFORD: I was hoping you were
8 going to get to that part.

9 (Laughter.)

10 MR. BRENT: What we would suggest to OSHA is
11 if you let the certification body -- this is not an
12 NCCCO issue, it's a certification body issue -- if you
13 let the certification body and the accrediting body,
14 which is either ANSI or NCCA, and we are certified by
15 both and accredited by both -- if you let the
16 accrediting body and the certification body determine
17 the practical crane size and then let us take care of
18 the capacity issue exclusively on the written exam,
19 then I think we could find a navigatable path.

20 Secondly, on the disenfranchisement, if you
21 let re-certification do its job, then we can capture
22 all of these existing operators as they go through

1 re-certification.

2 The rule requires them to be re-certified
3 every five years. That is the standard across the
4 board.

5 Certification and re-certification in the
6 certification world, the whole certification industry,
7 uses re-certification as a mechanism for doing exactly
8 this, it is designed to capture changes in rules,
9 changes in technology, changes in safety standards, in
10 a progressive fashion.

11 In other words, just because you have a change
12 in technology or a change in a rule, you don't have to
13 go back and re-certify the entire population tomorrow.

14 We would say you use re-certification for what
15 it is meant to do, and we can capture these folks going
16 through. That may be there are some that need to be
17 captured after the 2014 date, and I think that is the
18 sticking point with Federal OSHA.

19 I want to emphasize that re-certification is
20 not grandfathering, and for the record, this is the
21 difference. Re-certification means you capture
22 everybody eventually.

1 In this case, it is not just eventually, it's
2 by a date certain. The date certain is no more than
3 five years from the moment you were originally
4 certified.

5 Grandfathering is the existing pool of
6 individuals that never get to test, never get the
7 change, and it is a completely different mechanism. We
8 have never supported grandfathering. No certification
9 body frankly would be able to support it.

10 In fact, it doesn't even exist now at the
11 state level. Since 2000, in the crane world, when West
12 Virginia brought their rule in, every state license has
13 required existing operators to be tested and certified.

14 Mr. Chairman and members of the committee,
15 those are the residual issues, as Mr. Maddux said this
16 morning, we are hoping we can resolve them, but it does
17 exist. The clock is ticking. We are two years into a
18 four year period. We have a lot of people out there in
19 the industry very concerned about this, quite
20 reasonably, and we would like to be able to tell them
21 it has all been taken care of.

22 CHAIRMAN STAFFORD: I appreciate your

1 comments, Graham. Are there any questions or comments
2 from the committee?

3 MS. SHORTALL: Could you please just state the
4 name of your organization again?

5 MR. BRENT: Yes, ma'am. The National
6 Commission of Certification of Crane Operators.

7 MS. SHORTALL: Thank you.

8 CHAIRMAN STAFFORD: We will have to work with
9 staff. We have not yet decided when the first meeting
10 in 2013 will be. I think typically we are probably
11 looking at the May time frame perhaps. Hopefully, this
12 is resolved by then, but we will work with the staff,
13 and based on Chip's suggestion and your comments about
14 how we should take this up if by then it has not been
15 rectified.

16 MR. BRENT: Thank you.

17 CHAIRMAN STAFFORD: Thank you very much.

18 MS. SHORTALL: At this time I would like to
19 enter some exhibits into the record.

20 As Exhibit 30, the OSHA fact sheet titled
21 "Keeping Workers Safe During Hurricane Sandy Clean Up
22 and Recovery."

1 As Exhibit 31, CPWR update, CPWR launches an
2 on-line resource to identify and control silica dust.

3 Exhibit 32, comments from Rick Burnheimer, RF
4 CHECK.

5 I'd like to make one other comment about
6 tomorrow. Persons who have requested to participate
7 telephonically in the meeting, if you are unable to
8 attend tomorrow and would like to listen in on the
9 conversation that ACCSH will be having, just speak with
10 Damon Bonneau, and he will give you the passcode
11 information.

12 Please be aware you may not speak during the
13 meeting until the point for public comment period.

14 CHAIRMAN STAFFORD: Thank you, Sarah.

15 Any other questions or comments?

16 (No response.)

17 CHAIRMAN STAFFORD: I thank everyone for being
18 here today. I thank the committee. We will adjourn
19 for this afternoon.

20 (Whereupon, at 4:20 p.m., the meeting was
21 recessed, to reconvene the following day, Friday,
22 November 30, 2012.) * * * * *

E X H I B I T S

- Exhibit 1 - November 29-30, 2012 ACCSH meeting agenda
- Exhibit 2 - DOC Regulatory Update PowerPoint
presented by Jim Maddux
- Exhibit 3 - NIOSH Update PowerPoint presented by
Christine Branche and Matt Gillen
- Exhibit 4 - ACCSH's work group list, which includes
the work groups, co-chairs and OSHA
liaisons
- Exhibit 5 - Training and outreach work group report
from the November 28, 2012 meeting
- Exhibit 6 - OSHA outreach and training program
introduction to OSHA web page handout
from the work group meeting
- Exhibit 7 - Recommended modifications to the
introduction to OSHA's construction
outreach program delivered at the work
group meeting yesterday
- Exhibit 8 - Approved injury and illness prevention
program work group report from the
November 28, 2012 meeting

E X H I B I T S (continued)

- Exhibit 9 - Federal Agency Procurement Construction Health and Safety Checklist
- Exhibit 10 - Backing operations work group report from the November 28, 2012 meeting
- Exhibit 11 - Proximity detection system, PowerPoint presentation by Dr. Teizer, Construction Industry Institute, Georgia Institute of Technology
- Exhibit 12 - OSHA back over prevention technology PowerPoint handout
- Exhibit 13 - OSHA backing operations web page
- Exhibit 14 - Fatal injuries, a worker being struck by a vehicle or motor equipment that is backing up, all industries, Bureau of Labor Statistics 2011
- Exhibit 15 - Improved health hazards/emerging issues/prevention through design work group report from the November 27, 2012 meeting

E X H I B I T S (continued)

- Exhibit 16 - Introduction to nano materials and occupational health presented by Kristen Kulinowski, Institute for Defense Analysis, Science and Technology Policy Institute
- Exhibit 17 - Engineered nano particle exposure and construction PowerPoint by Bruce Lippy, CPWR
- Exhibit 18 - Thermo degradation of organic coating's handout from OSHA
- Exhibit 19 - Radio frequency exposure PowerPoint, Federal Communications Commission
- Exhibit 20 - OSHA update PowerPoint by David Michaels, Assistant Secretary
- Exhibit 21 - Diversity work group report from the November 27, 2012 meeting
- Exhibit 22 - Issues affecting women in construction, OSHA alliance PowerPoint

E X H I B I T S (Continued)

- Exhibit 23 - Proposed agreement establishing the lines between OSHA and NAWIC
- Exhibit 24 - OSHA and NAWIC safety and health alliance plan information sheet
- Exhibit 25 - OSHA and NAWIC alliance background document
- Exhibit 26 - National Association of Women in Construction fact sheet
- Exhibit 27 - Women in Construction fact sheet, draft document, developed by the Diversity Work Group
- Exhibit 28 - Draft Women in Construction web page
- Exhibit 29 - OSHA draft Women in Construction fact sheet
- Exhibit 30 - OSHA fact sheet titled "Keeping Workers Safe During Hurricane Sandy Clean Up and Recovery"
- Exhibit 31 - CPWR update, CPWR launches an on-line resource to identify and control silica dust
- Exhibit 32 - Comments from Rick Burnheimer, RF CHECK