

1 U.S. Department of Labor  
2 Occupational Safety and Health Administration

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Advisory Committee on  
Construction Safety and Health (ACCSH)

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1:02 to 2:59 p.m.

11

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	C O N T E N T S	
		PAGE
1		
2		
3	Opening Remarks/Agenda Overview	3
4	29 CFR 1926 Subpart G-Signs, Signals, and	
5	Barricades	14
6	Minor Corrections to 29 CFR 1926	
7	Subpart CC-Cranes and Derricks in	
8	Construction	46
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		

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

2 **Opening Remarks/Agenda Overview**

3 MR. STAFFORD: Good afternoon, everyone.  
4 Welcome to the special meeting. This is kind of  
5 a precedent-setting meeting for me in my time of  
6 being on the Committee and the Chair in terms of  
7 having a special meeting that's just lasting  
8 three hours in duration and talking about two  
9 specific issues.

10 MS. SHADRICK: Steve, this is Laurie  
11 Shadrick. I'm sorry. I can't hardly hear you.

12 MR. STAFFORD: Hold no, Laurie.

13 [Pause.]

14 MR. STAFFORD: Can you hear me now?

15 MS. SHADRICK: Oh, much better. Thank  
16 you very much.

17 MR. STAFFORD: All right.

18 MR. HERING: Steve, I can't hear you too  
19 well, though.

20 MR. STAFFORD: Put your hearing aid in,  
21 Bill, because I'm not going to be able to talk  
22 much louder, but I'll try. How is that?

1 MR. HERING: That's perfect.

2 MR. STAFFORD: Okay, thanks.

3 Again, welcome, everyone, to the meeting  
4 of the OSHA Construction Advisory Committee for  
5 Safety and Health. My name is Pete Stafford.  
6 I'm the Chair of the Committee, a Labor  
7 representative representing the Building and  
8 Construction Trades Department.

9 In order to ensure that we have a quorum  
10 and for our Committee, we need a quorum of eight  
11 members to be present in order to take action  
12 today.

13 This is a bit different, as I said  
14 before, as a special meeting dealing with just a  
15 couple of issues over a three-hour period. OSHA  
16 had made the decision that we were going to have  
17 a meeting, and in order to save resources, so  
18 that we can have our full Committee meeting in  
19 May and save some of our members the hassle of  
20 traveling in for just a three-hour meeting, the  
21 majority of our members are going to be  
22 participating by phone. So, to get started, it's

1 important to be sure that we have a quorum today,  
2 since there's only five of us here around the  
3 table.

4 So, with that, I am going to just ask  
5 those of you that I believe on the phone to  
6 verify and then say your name and who you  
7 represent for the record.

8 I believe that we have Jeremy Bethancourt  
9 on the phone. Jeremy?

10 MR. BETHANCOURT: Yes. This is  
11 Bethancourt, ACTA Safety, our Public  
12 Representative.

13 MR. STAFFORD: Okay, thank you.

14 I believe, also, we have Steve Hawkins on  
15 the telephone. Steve, are you there?

16 [No audible response.]

17 MR. STAFFORD: All right. We'll come  
18 back to Steve.

19 I believe we have Tish Davis on the  
20 telephone. Tish?

21 [No audible response.]

22 MR. STAFFORD: Okay. I believe we have

1 Tom Marrero on the telephone. Tom, are you  
2 there?

3 MR. MARRERO: Yes, I am. Tom Marrero,  
4 Trades International, Employer Representative.

5 MR. STAFFORD: Thanks, Tom.

6 I believe we also have Don Pratt on the  
7 telephone. Don, can you verify?

8 MR. PRATT: Yes, I'm here. Don Pratt,  
9 representing Employers.

10 MR. STAFFORD: Okay. Thank you, Don.  
11 Roger Erickson, are you on the phone?

12 MR. ERICKSON: Yes, I am, Pete. Roger  
13 Erickson, representing Labor.

14 MR. STAFFORD: Thank you, Roger.

15 And the last one I have on my list of  
16 being on the phone is Laurie Shadrick. Laurie?

17 MS. SHADRICK: Yes. ACCSH Employee Rep.

18 MR. STAFFORD: Okay, thank you.

19 So I believe that's it on the phone, and  
20 we do have a quorum, Sarah. I think we have nine  
21 now, and I believe Steve will be joining us, I  
22 hope, and also Tish Davis.

1           So, with that, we are going to go ahead  
2 around the table and introduce the other members.  
3 I'd like for you in the audience to introduce  
4 yourselves as well.

5           I think, normally, at our ACCSH meetings,  
6 for those of you who are not familiar with our  
7 protocol, is we have public comment at the end of  
8 the meeting, but for today, I think that we will  
9 open up for public comment after each issue. So,  
10 in other words, once we finish the presentation  
11 on Subpart G on the signs, we will open it up to  
12 public comment, so that we can clear that issue.  
13 For those of you who are here specifically for  
14 that and want to make comment, it would be the  
15 time to do so, and that way, you don't have to  
16 wait through the crane and derrick discussion  
17 until the end of the meeting, so I think that  
18 would be an appropriate way to break up the  
19 meeting, so that we get all the comments by  
20 issue.

21           So, with that, we will do  
22 self-introductions, starting with my right.

1           MR. BARE: I am Ben Bare. I'm the DFO  
2 for OSHA.

3           MR. CANNON: Kevin Cannon, Employer Rep,  
4 AGC of America.

5           MR. STRIBLING: Chuck Stribling, Kentucky  
6 Labor Cabinet, State Program rep.

7           MR. JONES: Walter Jones, Laborers'  
8 Health and Safety Fund, Employee rep.

9           MR. GILLEN: Matt Gillen, NIOSH rep.

10          MS. SHORTALL: Sarah Shortall, ACCSH  
11 Counsel.

12          MR. STAFFORD: Did someone just call in  
13 on the phone?

14          MS. DAVIS: Pete, this is Tish Davis.

15          MR. STAFFORD: Hi, Tish.

16          MS. DAVIS: Public rep for Massachusetts.

17          MR. STAFFORD: All right. Thank you very  
18 much, Tish. That will make us up to 10, so --

19          MR. HAWKINS: Pete?

20          MR. STAFFORD: Yes.

21          MR. HAWKINS: This is Steve Hawkins,  
22 State Plan representative.



1           MR. STAFFORD: All right. Great, Steve.  
2 Thank you. So we have a quorum of 11 members  
3 now.

4           Okay. So we'll start back, introductions  
5 back on the left.

6           MR. ROLFSKEN: I'm Bruce Rolfsken with  
7 Bloomberg BNA, Occupational Safety and Health  
8 reporter.

9           MR. JUSS: I'm Bruce Juss, Directorate of  
10 Construction.

11          MR. BOLON: Paul Bolon, Directorate of  
12 Construction.

13          MR. PECKHAM: Geoffrey Peckham, Chair of  
14 the ANSI Z535 Committee.

15          MR. PALMER: Craig Palmer, Directorate of  
16 Construction.

17          MR. POCOCK: Chip Pocock, representing  
18 Steel Erectors Association of America.

19          MR. MATUGA: Rob Matuga, National  
20 Association of Home Builders.

21          MR. HARDISON: Dylan Hardison, National  
22 Association of Home Builders.

1           MR. GLABMAN: Scott Glabman, Solicitor's  
2 Office.

3           MR. STEVANUS: Ken Stevanus, with the  
4 Directorate of Standards and Guidance.

5           MR. BELL: Robert Bell with the  
6 Directorate of Standards and Guidance.

7           MR. PRESTON: Vernon Preston, Directorate  
8 of Construction.

9           MR. BRANCH: Garvin Branch, Directorate  
10 of Construction.

11          MR. SALTA: Allen Salta, the Manitowoc  
12 Crane Company.

13          MR. KURTZ: John Kurtz, International  
14 Staple, Nail & Tool Association, and Z535 member.

15          MS. OWEN: Sarah Owen, National  
16 Electrical Manufacturers Association.

17          MR. CAMPER: Erick Camper, Directorate of  
18 Construction.

19          MS. PETITTI: Christine Petitti,  
20 Directorate of Technical Support and Emergency  
21 Management.

22          MR. TOMASESKI: Jim Tomaseski, IBEW.

1 MR. PANNELL: Mike Pannell, Office of  
2 Health Enforcement.

3 MR. MASARICK: John Masarick, Independent  
4 Electrical Contractors.

5 MS. MYERS: Michele Myers Mihelic with  
6 American Wind Energy Association.

7 MR. RIVERA: Jerry Rivera, National  
8 Electrical Contractors Association.

9 MS. CORDARO: Tressi Cordaro with  
10 Ogletree Deakins, representing Edison Electric.

11 MR. KELLY: Chuck Kelly with the Edison  
12 Electric Institute.

13 MR. VINCENT: Jeff Vincent, Operating  
14 Engineers, National Training Fund.

15 MR. WILLIAMS: Chris Williams,  
16 Association of Builders and Contractors.

17 MR. PAYNE: Michael Payne, Directorate of  
18 Construction.

19 MR. COLE: Chris Cole with Inside OSHA.

20 MR. CHARDIER: George Chartier, OSHA  
21 Communications.

22 MR. MADDUX: Jim Maddux, Directorate of

1 Construction.

2 MR. BONNEAU: Damon Bonneau, Directorate  
3 of Construction.

4 Mr. Chair, if I may, I just want to  
5 inform everybody that we went to make some  
6 additional copies of the handout, so we have some  
7 more copies of that also, and for public  
8 comments, there's a signup roster in the back of  
9 the room. If you haven't, you need to sign up  
10 for that.

11 MR. STAFFORD: Okay. Thank you,  
12 everyone. Good afternoon.

13 Ben, do you have any announcements before  
14 we get started?

15 MR. BARE: Oh, I just want to welcome  
16 everyone, and thanks for taking your time out of  
17 your busy schedule to work with us on this and  
18 come to the meeting and participate.

19 Today, we wanted to discuss a signage  
20 issue that is being put together -- or  
21 responsibility of the Directorate of Standards  
22 and Guidance, and we have Ken Stevanus here

1 that's going to talk about that, and I understand  
2 it is updating the consensus standard.

3           And then we also wanted to discuss the  
4 cranes and derrick standard a little bit, and  
5 what we are proposing is to clean up some  
6 typographical errors, some inadvertent omissions  
7 to the Final Rule that we passed in August of  
8 2010, and then some ambiguous provisions and get  
9 some clarification on that, so that the standard  
10 will be more workable.

11           So, with that, thanks, everybody, for  
12 your participation in advance, and I'll turn it  
13 back over to Pete.

14           MR. STAFFORD: All right. Thank you,  
15 Ben.

16           All right. So we are going to deal with  
17 two issues. OSHA has sent out to all ACCSH  
18 members, a briefing document in preparation for  
19 this meeting with respect to the Subpart G, the  
20 signage issue. We had a document that  
21 essentially laid out the current language, what  
22 OSHA is proposing in terms of revising this

1 standard, and with an explanation of  
2 recommendations for why they are suggesting those  
3 changes, and as Ben said, it is essentially,  
4 primarily, as far as I can tell, really updating  
5 the standard to include the new ANSI A10  
6 reference, the new ANSI A10 standards on signage.  
7 So that's the issue we're taking up first, if Jim  
8 is not going to have anything to say.

9           So I guess, Ken Stevanus, you're on the  
10 agenda to kind of give the Committee a briefing  
11 on where we stand in the background. Yes, sir,  
12 please. Thank you.

13           Again, let me remind you. If you would  
14 like to make a public comment on this particular  
15 issue, please sign up. We will get through  
16 public comment on this issue before we move to  
17 crane and derrick.

18           So, unless there's any question from the  
19 Committee, Ken, please, the floor is yours.

20                           **29 CFR 1926 Subpart G--Signs,**  
21                                   **Signals, and Barricades**

22           MR. STEVANUS: I feel like I'm defending

1 my thesis here.

2 I want to say good afternoon. Again, my  
3 name is Ken Stevanus from the Directorate of  
4 Standards and Guidance in the Office of  
5 Engineering safety. I wanted to thank you guys,  
6 too, for coming together so quickly to help us  
7 with this.

8 There are other people here who have been  
9 working on this project, too. Scott Glabman is  
10 here from the Office of the Solicitor, and, of  
11 course, Vernon Preston and Paul Bolon back here  
12 as well.

13 As I'm sure most of you are aware, OSHA  
14 has been taking on a series of consensus standard  
15 updating projects, the latest of which is  
16 updating the ANSI signage standards on signs and  
17 tags, for both OSHA's general industry and  
18 construction standards. Like you mentioned, you  
19 guys had received some materials on that.

20 As in the past with other consensus  
21 standard updating, OSHA will be publishing a  
22 Direct Final Rule. This Direct Final Rule

1 process determines that a rule was -- we do the  
2 Direct Final Rule process when we determine that  
3 this rulemaking is noncontroversial and will have  
4 no economic or compliance burdens to employees.

5           When we publish the DFR, the Direct Final  
6 Rule, we will also publish at the same time the  
7 companion Notice of Public Rulemaking. If OSHA  
8 does not receive any significant adverse comments  
9 to the Direct Final Rule, then the rule becomes  
10 effective. I think it's within 30 -- or 60 days,  
11 I guess, right? Thirty days for comment period.

12           However, if OSHA does receive any  
13 significant adverse comments to the CFR, then the  
14 rule -- no, I'm sorry -- then we will withdraw  
15 the DFR and publish the proposal for rulemaking.

16           [Mr. Stevanus speaks with attendee off  
17 mic.]

18           MR. STEVANUS: Well, he was just  
19 informing that the rule will become effective in  
20 90 days if we don't receive any adverse comments.

21           This all started when NEMA suggested to  
22 OSHA that we update its standards or ANSI



1 standards as part of our consensus standard  
2 project updating.

3 MR. STAFFORD: Ken, can just for  
4 clarification? What is the acronym for NEMA for  
5 those folks that don't know that?

6 MR. STEVANUS: Oh, I'm sorry. It's the  
7 National Electrical and Manufacturers  
8 Association.

9 So, in this consensus standard updating,  
10 we are going to be updating the ANSI Z35.1 1968,  
11 Specifications for Accident Prevention Signs, to  
12 the new ANSI Z535.2, Environmental and Facility  
13 Safety Signs. We will be updating the ANSI Z35.2  
14 1968, Specifications for Accident Prevention  
15 Tags, to the ANSI Z535.5, Safety Tags and  
16 Barricade Tapes for Temporary Hazards; and the  
17 ANSI Z53.1 1967, Safety Color Code for Marking  
18 Physical Hazards, to the ANSI Z535.1, Safety  
19 Colors.

20 In this rulemaking, OSHA will be allowing  
21 employers to follow either the current ANSI  
22 consensus standard, currently cited in OSHA's

1 rule, or they will be able to follow the latest  
2 ANSI Z535 standards. OSHA has determined that  
3 the ANSI -- the newest ANSI Z535 series of  
4 standards are at least as effective as the ANSI  
5 standards now cited in OSHA standards. This will  
6 allow employees, if they choose, the ability to  
7 purchase and/or use signs and tags needed in  
8 newest ANSI standards and not be in violation  
9 with OSHA's current standards.

10           Currently, anyone using signs and tags  
11 based on the ANSI standards in our standards, if  
12 they're not using -- if they're using signs or  
13 tags based on the newer ANSI standards, they are  
14 in potentially a de minimis violation with OSHA.

15           In addition, by giving employers the  
16 option of which consensus standards to follow,  
17 the rule will impose no new compliance burdens or  
18 economic cost, so they have the choice.

19           Now, as you're aware, the one standard in  
20 construction that we are updating, besides the  
21 ones in general industry, is the 1926.200,  
22 Accident Prevention Signs and Tags.

1           Basically, any provision in this current  
2 standard which cites or refers to the older ANSI  
3 standards will now cite or refer to the older or  
4 new ANSI standard, giving the reader their  
5 choice. That's basically in a nutshell all we're  
6 doing.

7           But you will also notice that some of the  
8 provisions in the current OSHA standard for  
9 construction refer to figures and tables. We  
10 will be removing these figures and tables, which  
11 were pulled directly from the old ANSI standard,  
12 and we will refer the readers to the same figures  
13 and tables that are either in the old standard or  
14 the new ANSI standard. We didn't want to leave  
15 those couple figures in our standard when they  
16 only apply to the old version, and then we didn't  
17 want to cloud up the whole big rule by putting  
18 all the figures and tables from two standards in  
19 there. So all we're going to do is just refer  
20 you to those.

21           So, basically, that's all we're doing in  
22 a nutshell. We're proposing to update the

1 construction standard by allowing the use of  
2 either the current ANSI standard or the newest  
3 ANSI standard. We determined that the newest  
4 standards are at least as effective as the old  
5 standards, that we allow employers to use newer  
6 standards without being in a de minimis  
7 population, and there will be no additional  
8 compliance or economic burdens.

9 And that's all I have, really, other than  
10 answering questions.

11 MR. STAFFORD: Mr. Preston, have anything  
12 to add?

13 MR. PRESTON: No, I do not.

14 MR. STAFFORD: Okay.

15 MR. STEVANUS: I know that was kind of  
16 fast and juggled, but --

17 MR. STAFFORD: So I guess in a nutshell,  
18 then you are just updating the standard with the  
19 new references. The employer is allowed to use  
20 the old or the new with no de minimis findings  
21 whether they use the new.

22 MR. STEVANUS: Right.

1           MR. STAFFORD: I think in our view, in my  
2 view, that's a good thing.

3           I'm not so -- you said -- one thing that  
4 I think is valuable to employers is to have those  
5 signs and tables that would help them understand  
6 what these signs look like, that I'm a little but  
7 suspect about removing those on the new  
8 standards. I don't know if the other Committee  
9 has any comments or questions on that, but I  
10 guess if they are appropriately referenced  
11 enough, it wouldn't be a problem. In other  
12 words, I think having that direction there, if  
13 someone had to quickly make up a sign that was in  
14 compliance on what the design of the sign would  
15 look like, seems to me it would be helpful to the  
16 industry employers. And I recognize that's  
17 probably a paperwork burden, but it's just -- and  
18 reading the document, that would be the one thing  
19 that kind of caught my eye that might be  
20 potentially problematic with it, but other than  
21 that --

22           MR. STEVANUS: Well, just in general, I

1 agree that may be a good point, but if you read  
2 it, a lot of times we say your sign must me in  
3 compliance with the ANSI standard. We don't in  
4 that paragraph necessarily say it should be this  
5 big, this color, and we are already referring  
6 them to the standard itself, anyway.

7           So, in either case, they'd almost have to  
8 go back to the ANSI standard, anyway.

9           MR. STAFFORD: For that design.

10          MR. STEVANUS: Or for almost anything to  
11 do with it, right.

12          MR. STAFFORD: Okay, all right.

13          MR. BETHANCOURT: Mr. Chairman?

14          MR. STAFFORD: Yes, Steve, go ahead.

15          MR. BETHANCOURT: This is Jeremy  
16 Bethancourt, Mr. Chairman.

17          MR. STAFFORD: Oh, I'm sorry, Jeremy.

18          MR. BETHANCOURT: I have to -- I would  
19 agree with your concern or point that if we're  
20 going to remove something, we should put it back  
21 in there, so that it aids employers as a  
22 reference. Even though we're sending them to go

1 look at the ANSI standard, I would be concerned  
2 that that would be construed as a particular  
3 burden since, as far as I'm aware, you'd have to  
4 purchase that standard, whereas, right now, they  
5 can actually just go and see that by reference in  
6 the standard, the way I understood it.

7 MR. STAFFORD: Okay. Thanks, Jeremy.

8 Any ACCSH members here, any questions or  
9 comments for those around the table?

10 MS. SHORTALL: I have a question for Mr.  
11 Stevanus.

12 After the changes are made to this, will  
13 you be putting out any guidance material about  
14 the changes in the Final Rule?

15 MR. STEVANUS: We hadn't discussed that,  
16 but if it's something that would be needed, I'm  
17 sure that could be easily done.

18 MS. SHORTALL: Okay.

19 By any chance, would those guidance  
20 materials include the pictures that originally  
21 were in the standard?

22 MR. STEVANUS: I would -- not knowing

1 legally, I would imagine the ones that are in  
2 there for the old standards, we could do;  
3 however, I don't know what the -- if we're  
4 allowed to just pull stuff out of the current  
5 ANSI standards.

6 MR. STAFFORD: Right.

7 MR. STEVANUS: So that's the -- you know,  
8 if you're going to follow the newer version, for  
9 us to put those figures or tables in, we would  
10 have to have --

11 MS. SHORTALL: But you could include the  
12 old ones. All right.

13 MR. STEVANUS: I would assume we could  
14 keep the old ones since they're already in our  
15 standard.

16 MR. STAFFORD: Okay. Yes, Chuck, please.

17 MR. STRIBLING: Good afternoon. Chuck  
18 Stribling.

19 A couple questions. The DFRs are going  
20 to be 1910 and 1926?

21 MR. STEVANUS: Yes. It contains both  
22 general and construction.



1           MR. STRIBLING: Okay. And do you happen  
2 to know where the 1910 side of the house is on  
3 this? Are they ready to roll with the DFR when  
4 you guys or are they --

5           MR. STEVANUS: I don't -- is there -- I  
6 don't know if there is a comparable committee,  
7 anyways, so --

8           MR. STRIBLING: There is.

9           MR. STEVANUS: I don't --

10          MS. SHORTALL: There is no requirement to  
11 take the general industry side to NACOSH. The  
12 only statutory requirement we have is to bring it  
13 before ACCSH.

14          MR. STRIBLING: Okay. And I had one  
15 other question. On 1926.200(h)(2), it says for  
16 accident prevention signs, employer shall follow  
17 specifications that are similar, and it goes into  
18 the figures. Why is that specific paragraph "are  
19 similar" used? For the others, it's shall,  
20 shall, shall, but on this paragraph, it's "are  
21 similar."

22          So it kind of makes me wonder how similar

1 are similar. I don't know that that's -- I see  
2 what you're saying. You have a choice here and  
3 here, but everything else, it talks about  
4 "shall." It's our experience when you get into  
5 the "are similars" and "shoulds," it's when you  
6 get on a slippery slope.

7 MR. STEVANUS: I don't know. Someone in  
8 construction might answer, because that's an  
9 initial construction standard that was written  
10 eons ago, so that's the language that's been in  
11 there. I don't know offhand, myself. I don't  
12 know if anybody in the Office of Construction can  
13 answer that or not, but that's -- you're  
14 referring to language that's been in there since  
15 day one, I guess.

16 I mean, I'm sure if you go back and look  
17 when they first published it, why they did that,  
18 but I don't know offhand. I mean, that's some  
19 language we can look at too.

20 MR. STAFFORD: Kevin, do you have  
21 anything?

22 [No audible response.]

1 MR. STAFFORD: Walter? Matt?

2 [No audible response.]

3 MR. STAFFORD: If we have comments, so I  
4 can't see your hands raising. Just for those  
5 folks on the phone, anyone else on the phone have  
6 any particular comments or suggestions,  
7 questions?

8 MR. BETHANCOURT: I'm sorry, Mr.  
9 Chairman. This is Jeremy Bethancourt again. I  
10 wasn't able to hear very well. Was there a reply  
11 to Sarah's question, I believe, about there being  
12 a facts sheet in the future that would  
13 incorporate the old?

14 MR. STAFFORD: No. I think the reply was  
15 that OSHA hasn't given that consideration at this  
16 point.

17 MR. BETHANCOURT: Okay.

18 MR. STEVANUS: But it would be something  
19 I would imagine it wouldn't be too hard to do.

20 MR. STAFFORD: Mm-hmm, right.

21 MS. SHORTALL: I have a question  
22 regarding Mr. Stribling's question about (h) (2).

1 By using the word "similar" in (h) (2), would that  
2 give the employer more flexibility in how to  
3 comply with that provision?

4 MR. STEVANUS: I would believe so, yes.

5 MS. SHORTALL: All right.

6 MR. STAFFORD: Anyone else on the  
7 telephone have any questions or comments?

8 MR. HAWKINS: This is Steve Hawkins. I  
9 don't believe that I do, Mr. Chairman.

10 MR. STAFFORD: Thanks, Steve.

11 MR. ERICKSON: Roger Erickson. I'm fine.

12 MR. STAFFORD: Tom?

13 MR. MARRERO: This is Tom Marrero. I  
14 don't have any questions.

15 MR. STAFFORD: Okay. Laurie?

16 MR. PRATT: This is Don Pratt. I'm all  
17 set.

18 MR. STAFFORD: Okay. Laurie or Bill?

19 [No audible response.]

20 MR. STAFFORD: Okay. So then I  
21 understand, procedurally, then if this Committee  
22 recommends -- and I'm assuming, Sarah, that we'll

1 have to make some kind of formal recommendation  
2 that OSHA proceed, and what we're suggesting is  
3 that OSHA proceed with going with the Final Rule  
4 and for opening for public comment on this issue.  
5 Is that the call for order?

6 MS. SHORTALL: You can do that right now,  
7 or you could to that motion after your public  
8 gives comments.

9 MR. STAFFORD: Okay. Well, why don't we  
10 wait for that.

11 Okay. So, on this issue, is there any  
12 comments for anyone signed up to make public  
13 comment?

14 You have to reintroduce yourself again  
15 for us, please, for the recorder.

16 MR. PECKHAM: Good afternoon. My name is  
17 Jeffrey Peckham. I am Chair of the ANSI Z535  
18 Committee, which is the committee within ANSI  
19 that sets down the principles, principles for the  
20 design of safety signs, labels, tags, and colors,  
21 and it's these standards that OSHA is looking to  
22 reference now and replacing the citations they

1 have for -- at least nest to the citations they  
2 have for the 1967 and 1968 standards.

3 I would like to give you some brief  
4 understanding of why the ANSI Z535 standards  
5 represent the state-of-the-art for safety signage  
6 and how they are comparable to and better than  
7 the 1967 and 1968 standards.

8 The first reason why is because they have  
9 -- within the ANSI Z535 format, you are allowed  
10 to have additional panels on the signs  
11 themselves, so that if you look at a typical  
12 construction area sign, you would have the  
13 ability to have graphical symbols, as well as  
14 text on the sign, and the ability to have  
15 additional information, even in the form of  
16 bilingual or multilingual panels. And the  
17 current signage formatting that OSHA currently  
18 has does not have this opportunity to convey this  
19 more substantial information.

20 The more substantial information is  
21 needed from a perspective of over the last 30  
22 years, legal precedent has set down what

1 constitutes an adequate warning and what the duty  
2 to warn is, and that combined with human factors  
3 research has been what's informed the ANSI Z535  
4 Committee to come up with the definition for the  
5 proper content of a safety sign, which includes  
6 the description of what the hazard is, how to  
7 avoid the hazard, the consequence of interaction  
8 with the hazard, and that seriousness level of  
9 the hazard. And with the multi-panel approach,  
10 that's possible, and a lot of that information  
11 can be also conveyed in symbolic form, so that  
12 you have the ability to communicate across  
13 language barriers and to communicate in a way  
14 that people can notice the sign, as well, even if  
15 they don't understand or don't read English.

16           So that combined with the latest research  
17 that has to do with a risk assessment perspective  
18 on how to define risk as a two-factored approach,  
19 a probability and severity, whether the accident  
20 will happen, whether it could happen, whether  
21 it's serious injury, or whether it's minor  
22 injury, these are the factors that the ANSI Z535

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1 Committee has built into the design principals  
2 with Z535 and the current OSHA regulations and  
3 the signage, they set the standards that they  
4 reference -- do not. They just hinge on  
5 probability, whether it's immediate or whether  
6 it's potential.

7           So these are the design aspects to safety  
8 signage that create effective safety signage, and  
9 we look forward to working with OSHA, and even I  
10 would volunteer our committee's services to help  
11 you illustrate a pamphlet that would go a long  
12 way to describing the differences between the old  
13 and the new.

14           And NEMA, the Secretariat, and we have  
15 the resources to be able to provide you with  
16 illustrations, so, with that, maybe that can help  
17 fill a gap that you were just looking at.

18           MR. STAFFORD: Okay. I appreciate that,  
19 Mr. Peckham.

20           Any questions or comments from the  
21 Committee members?

22           Matt.



1           MR. GILLEN:  Yeah.  So are there  
2 commercial products available, signs that meet  
3 the new standard?

4           MR. PECKHAM:  Yes.  I think if you look  
5 in the sign catalogs of most safety sign  
6 manufacturers, there are ANSI Z535-formatted  
7 signs there, although the vast majority continue  
8 to be the old formats from the Z35 standards from  
9 a long time ago, because that's what the public  
10 wants.  That's what the industry wants at this  
11 point.

12          MR. STAFFORD:  Any other questions?  
13 Comments?

14          MR. JONES:  I just have a question, and  
15 it's directed more to OSHA.

16                 Have you guys given any thought to  
17 sunsetting the old ANSI requirements, so that we  
18 can move forward with the newer requirements, or  
19 is there a cost associated with it and research  
20 going into that?  Any injury illness data that  
21 may support such a move?

22          MR. STEVANUS:  You mea --

1           MR. JONES:   Sunsetting the old ANSI  
2 standard in favor of moving forward with the new  
3 standard.  Have you done any studies on costs  
4 associated with that type of change and whether  
5 there's any injury, illness, fatality savings as  
6 -- or -- yeah, I guess savings as a result of  
7 that change as well?

8           MR. STEVANUS:  No.  There's been no  
9 studied done to see if there's any improvement.

10          MR. JONES:  Okay.

11          MR. STEVANUS:  Either economic or  
12 life-saving, if that's the word you're using, or  
13 in proving injuries.

14                 There only thing, we figured there could  
15 be a potential cost, because looking up different  
16 websites, we'd find signs based on the old  
17 standard were cheaper than signs based on the new  
18 standard.

19          MR. STAFFORD:  Mr. Peckham, did you have  
20 a comment?

21          MR. PECKHAM:  Yes, I have a comment on  
22 that.

1           The Z535 Committee would strongly  
2 encourage OSHA to look down the road at just  
3 adopting the Z535 approach, so that we do have a  
4 national uniform system for hazard recognition,  
5 instead of two systems side by side. And we  
6 recognize there could be a phased-in approach to  
7 achieve that.

8           From a sign cost perspective, there  
9 should be no additional cost to print a Z535 sign  
10 compared to an old OSHA sign, given today's  
11 technology. They should be side by side in  
12 comparison.

13           MR. STAFFORD: All right. Thank you.  
14           Matt.

15           MR. GILLEN: Matt Gillen.

16           So would it be your opinion that the  
17 draft preamble, you know, would maybe benefit  
18 from having some extra language that might  
19 explain the new system, and that it has some  
20 differences or advantages, that if people were  
21 going to make a decision, that they might move  
22 towards that over time, even though from a

1 compliance point of view, they will never be held  
2 accountable to that, but just to sort of  
3 encourage people and explain some of the  
4 advantages?

5 MR. PECKHAM: Again, we would certainly  
6 welcome the opportunity to have some input on  
7 that guidance that's given. Yes.

8 MR. STEVANUS: I just want to jump in.

9 I don't know exact -- I don't remember  
10 the exact material we sent to you, but we do have  
11 a background section, which does sort of discuss  
12 some of that, where it mentions that the newer  
13 signs allow for more visual pictures, more --

14 MR. GILLEN: Could you -- it would be  
15 good to look at the language that talks about  
16 that, that talks about that message.

17 This is it, right?

18 MR. STAFFORD: Yeah, that's the document  
19 that he's referring to.

20 MS. DAVIS: Pete, this is a question from  
21 Tish.

22 Have the new ANSI signs been evaluated in

1 the field?

2 MR. STAFFORD: I guess I will yield to  
3 OSHA On that question. Tish is asking if these  
4 new signs have in some way been evaluated by the  
5 industry in terms of their effectiveness or  
6 efficacy.

7 MR. STEVANUS: Well, OSHA hasn't done any  
8 of that. I don't know if anybody -- most likely,  
9 if anybody has done it, it would have been NEMA.

10 MR. PECKHAM: This is Jeffrey Peckham.

11 I can speak to the use of the ANSI Z535  
12 standards, and the formatting here for product  
13 safety labeling, the safety labels that go on  
14 consumer products, as well as industrial  
15 products, and even the equipment that's used on a  
16 construction site, and there, we've seen a much  
17 more effective reduction in accidents as well as  
18 the effective communication of critical safety  
19 information and the reduction in lawsuits based  
20 on having provided adequate warnings instead of  
21 inadequate warnings, as was the case prior to the  
22 ANSI Z535.4 standard.

1           You are looking at the .2 for  
2 environments and facilities, but the .4 had to do  
3 with product safety labeling, and over the last  
4 20 years, it's had a tremendously positive effect  
5 on helping manufacturers of products to  
6 adequately warn about residual risks, and we are  
7 looking to be able to do the same thing here when  
8 it comes to facilities and environments.

9           MR. STAFFORD: Just before we go back, do  
10 you see it on page 3 there?

11           MR. GILLEN: I see it on page 3. It's  
12 pretty neutral, though. I mean, it says things  
13 like -- you know, for example, on page 4,  
14 believes the new signs are at least as protective  
15 as the old ones tends to be, the main message as  
16 opposed to -- it does say that ANSI and NEMA  
17 claim that the new signs provide additional  
18 information, including specific identity of  
19 hazard, description of how serious the hazard is,  
20 how to avoid the hazard, probably consequences.  
21 I see that.

22           MR. STEVANUS: Well, this is the

1 background, and this is the stuff we're going to  
2 be putting in the docket that we're working from,  
3 and that's -- you know, that's what we can do.

4 MR. GILLEN: Okay.

5 MR. STAFFORD: All right. Thank you.

6 Tish, was your question adequately  
7 answered? Tish?

8 MS. DAVIS: It was answered. I think,  
9 you know, if we have evidence they in fact are  
10 better signs, the issue of sunseting the old  
11 signs at some point is something that should be  
12 considered.

13 MR. STEVANUS: I don't think OSHA would  
14 never not consider that.

15 MR. STAFFORD: Right.

16 MR. STEVANUS: It's just at this point,  
17 this is the most effective way of getting this  
18 out as soon as possible.

19 MR. STAFFORD: Well, I'm assuming this is  
20 a cost issue --

21 MR. STEVANUS: Right.

22 MR. STAFFORD: -- also using the old

1 signs, that there's not a burden on employers to  
2 have to adopt the new signs, right?

3 MR. STEVANUS: Yes. Otherwise, it  
4 becomes a full rulemaking and will take --

5 MR. STAFFORD: We understand.

6 [Laughter.]

7 MR. STAFFORD: We understand that  
8 process.

9 MR. PECKHAM: This is a very positive  
10 first step.

11 MR. STAFFORD: So any other questions or  
12 comments, particularly from the public, because  
13 we are getting ready to wrap up on this issue?  
14 No other?

15 [No audible response.]

16 MR. STAFFORD: Mr. Peckham, thank you  
17 very much for your comments.

18 MR. PECKHAM: Thank you.

19 MR. STAFFORD: Anybody on the phone have  
20 any other questions or comments?

21 ATTENDEE: I don't.

22 ATTENDEE: None here.



1 MR. STAFFORD: Okay.

2 ATTENDEE: None.

3 ATTENDEE: Nope.

4 MR. STAFFORD: All right.

5 ATTENDEE: I'm good.

6 MR. STAFFORD: All right. So I think  
7 then we are to the point then in terms of making  
8 a recommendation, Miss Sarah, and we're going to  
9 need a motion from the Committee, and I'm  
10 assuming the motion needs to be framed that ACCSH  
11 is recommending to OSHA that they proceed with a  
12 direct final rule and at the same time come out  
13 with an announcement about a public comment  
14 period.

15 I don't know what you're thinking about  
16 in terms of if we get this action today and the  
17 Committee makes that recommendation, what the  
18 timing is in terms of coming out with a Direct  
19 Final Rule. Would you have any idea about that?

20 MR. STEVANUS: I think we have it on our  
21 agenda, by the end of next month.

22 MR. STAFFORD: By the end of the next

1 month, the Direct Final Rule will be out.

2 MR. STEVANUS: That's the steps, yes.

3 MR. STAFFORD: Okay. So could I ask  
4 either a member on the phone or here at the table  
5 if that's the correct motion?

6 MS. SHORTALL: Can I make sure I've got  
7 you down correctly? I have then that ACCSH  
8 recommends that OSHA proceed with the Direct  
9 Final Rule/Proposed Rule to update Section 1926  
10 Subpart G, Signs, Signals, and Barricades, and  
11 request public comment.

12 MR. STAFFORD: Yes.

13 ATTENDEE: So moved.

14 MS. SHORTALL: Oh, okay.

15 MR. PRATT: Don Pratt, second.

16 MS. SHORTALL: Okay.

17 MR. STAFFORD: So we have the motion and  
18 a second from who?

19 MR. PRATT: Don Pratt.

20 MR. STAFFORD: From Don Pratt.

21 All those in favor, signify by saying --  
22 oh, sorry. Wait. I'm sorry.

1 MS. SHORTALL: Any other discussion or  
2 questions?

3 MR. STAFFORD: All right. So any other  
4 discussion or questions then before we take a  
5 vote?

6 MS. SHORTALL: I would like to ask Mr.  
7 Stevanus a question, and that is, are you going  
8 to be having an issue section at all in this  
9 Direct Final Rule, Proposed Rule, asking specific  
10 questions?

11 MR. STEVANUS: No. We don't have any  
12 specific questions. We just say we offer to  
13 comment.

14 MS. SHORTALL: Okay.

15 MR. STEVANUS: But we don't have specific  
16 questions.

17 MR. STAFFORD: Any other questions or  
18 comments?

19 [No audible response.]

20 MR. STAFFORD: Okay. A motion has been  
21 made and seconded. All those in favor, signify  
22 by saying aye.

1 [Chorus of ayes.]

2 MS. SHORTALL: Wait. We need to have --

3 No, no, no, no, no. We need to --

4 MR. STAFFORD: Take all those back. Hold  
5 on one second.

6 MS. SHORTALL: We have to have a roll  
7 call, since we have people on the phone.

8 MR. STAFFORD: A roll call, all right.  
9 So --

10 MS. SHORTALL: Okay.

11 MR. STAFFORD: So we just go through and  
12 ask how they are voting individually?

13 MS. SHORTALL: Yes, yes.

14 MR. STAFFORD: Okay.

15 So our Solicitor is telling me we need a  
16 roll call, because many of you are on the phone.  
17 So I'm just going to go through the names, and  
18 you're just going to vote individually.

19 So starting with Jeremy?

20 MR. BETHANCOURT: Aye.

21 MR. STAFFORD: Steve?

22 MR. HAWKINS: Aye.

1 MR. STAFFORD: Tish?

2 MS. DAVIS: Aye.

3 MR. STAFFORD: Tom?

4 MR. MARRERO: Aye.

5 MR. STAFFORD: Don?

6 MR. PRATT: Aye.

7 MR. STAFFORD: Roger?

8 MR. ERICKSON: Aye.

9 MR. STAFFORD: Laurie? Laurie Shadrick,  
10 are you with us?

11 MS. SHADRICK: Yes. I'm sorry. I had it  
12 on mute, so it wouldn't have any noise.

13 MR. STAFFORD: All right.

14 MS. SHADRICK: Background noise.

15 MR. STAFFORD: Okay. And around the  
16 table, as well?

17 MS. SHORTALL: Mm-hmm.

18 Kevin, aye.

19 Chuck?

20 MR. STRIBLING: Aye.

21 MR. JONES: Aye. Walter.

22 MR. GILLEN: Aye.

1 MR. STAFFORD: Aye.

2 MS. SHORTALL: Okay, thank you.

3 MR. STAFFORD: All right. Thank you.

4 Thank you very much, Mr. Stevanus, for your  
5 comments.

6 MR. STEVANUS: Thank you, guys.

7 **Minor Corrections to 29 CFR 1926**

8 **Subpart CC--Cranes and Derricks in Construction**

9 MR. STAFFORD: Our second issue for today  
10 is probably a little bit more complicated of an  
11 issue, and that is dealing with some minor  
12 revisions to the crane and derrick standard.

13 Again, the OSHA had sent out to the ACCSH  
14 prior to the meeting, some briefing material  
15 suggesting small revisions to OSHA that they  
16 would want us to consider, due to either  
17 redundancies or ambiguity in the language. So  
18 we'll be having a presentation from Paul Bolon.

19 Again, I'm going to ask those folks that  
20 are interested in commenting to be sure to sign  
21 up, and we will be sure that we have plenty of  
22 time for all public comments on this issue.

1 MS. SHORTALL: Mr. Chair, while they are  
2 setting up to give their presentation, I would  
3 like to mark into the record for this meeting as  
4 Exhibit 1, Agenda for today's meeting; as Exhibit  
5 2, the preamble language, Direct Final Rule,  
6 updating OSHA standards based national consensus  
7 standards, signage; and as Exhibit 3, the  
8 proposed change to Subpart G, signs and signals  
9 and barricades, and that's Subpart G of 1926.

10 MR. STAFFORD: Thank you, Sarah.

11 Mr. Bolon, welcome again. Good to see  
12 you.

13 MR. BOLON: Thank you. It's good to be  
14 here.

15 I'm here with Garvin Branch on my left,  
16 who is on the staff in DOC and was one of the  
17 main staff people that worked on the crane  
18 standard, and on my right is Bruce Juss. Bruce  
19 also worked -- he's also a contractor now but  
20 also did a great deal of work on the final crane  
21 standard.

22 When we knew that we were going to have

1 this meeting to go over the signage, we had been  
2 working on a proposal to do some of the usual  
3 corrections that comes with the final standard.  
4 It's very typical when OSHA publishes a final  
5 standard that six months to two years later, it  
6 publishes a notice that usually is just a  
7 technical corrections, correcting grammar, bad  
8 references, and things like that, misspellings  
9 and things like that.

10 This time, we had a few larger things to  
11 correct, so I think we're calling this "amendment  
12 to the final standard," rather than just being a  
13 technical correction.

14 Some of the changes are not just word  
15 changes, but are like the new definitions, the  
16 forklift issue, and the other voltage. I will  
17 walk through all of those, but I just want to let  
18 you know this is just kind of a little larger  
19 corrections notice than is typical for OSHA, and  
20 that's -- but we're not -- probably not going to  
21 do a Direct Final Rule, but just do a normal  
22 proposal, have a comment period, and have a Final

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1 Rule.

2 Does everybody have a copy of the  
3 red-text table which have the existing text and  
4 then the changes?

5 MR. STAFFORD: Right, I believe so. Yes,  
6 that was sent out beforehand to all Committee  
7 members.

8 MS. DAVIS: Yes.

9 MR. BOLON: Okay.

10 MR. STAFFORD: Paul, so I understand, the  
11 next step would be once we go through this  
12 Committee and we take action, then the next step  
13 for OSHA would be to what, so that I understand  
14 clearly?

15 MR. BOLON: Public a proposal with these  
16 amendments.

17 MR. STAFFORD: Okay.

18 MR. BOLON: Fairly normal rulemaking. I  
19 mean, we think that these are not really  
20 controversial, so we think even though some of  
21 them are kind of larger, obviously, than just  
22 grammatical fixes, but we were just going to

1 propose and go final.

2 MR. STAFFORD: Thank you.

3 MR. BOLON: Looking at the first page,  
4 the 1926.600 equipment, we tried to use the word  
5 "equipment" for crane throughout the red text,  
6 because the standard covers a lot of equipment  
7 besides cranes. It obviously covers derricks,  
8 but there's also a list of equipment in the scope  
9 that's covered, not all of which is called a  
10 "crane."

11 So, on this first page, we're just  
12 substituting the word "equipment" for "crane,"  
13 really. We have actually done that throughout  
14 all the rest of the standard, but we missed a few  
15 here right at the start.

16 MR. STAFFORD: So right out of the gate,  
17 let me ask you a question. For the first change,  
18 you recommended proposed regulatory text. Should  
19 it be equipment and load or just equipment?

20 MR. BOLON: Well, I think when we defined  
21 equipment, it included all of the crane -- the  
22 crane, the boom, the wire, the load, and

1 anything. So, when we use the word "equipment,"  
2 we mean the whole thing, so it includes load.

3 MR. STAFFORD: Okay.

4 MR. BOLON: Then on the second page,  
5 again, there's just more substitutions of the  
6 word "equipment" for "crane."

7 And then in the scope section, we had a  
8 list of equipment that was excluded from  
9 coverage, and in the proposal, we had an  
10 unqualified exclusion for forklifts for powered  
11 industrial trucks, but then in the final, the  
12 agency made a decision -- was that since the  
13 forklift -- we had heard, I guess, from a couple  
14 of commenters that cranes -- that forklifts could  
15 have equipment added onto them, so that they  
16 would be configured like a crane, and the agency  
17 made a determination to include those modified or  
18 changed forklifts under the crane standard.

19 And so what we wrote is on the left  
20 there, and it says the exclusion is the powered  
21 industrial trucks, forklifts, except when  
22 configured to hoist and lower by means of a winch

1 or hook and horizontally move a suspended load.

2           So the issue here was a suspended load.  
3 It's not a load on the forks. We had said in the  
4 preamble pretty clearly that any load on the  
5 forks, it's being used in its normal manner as a  
6 forklift, and it's not covered in the crane  
7 standard.

8           But if the forklift had a suspended load  
9 because it had an attachment like a boom, then it  
10 would be covered.

11           But although our preamble is quite clear  
12 that when we said that when a forklift is  
13 configured by a crane, we said it used components  
14 such as winches, booms, jibs, gantries, and  
15 trolleys, but when we wrote it in the red text,  
16 we said winch or hook.

17           When you look just at the plain reading  
18 of the words, it means that if you had a forklift  
19 and, as is often done, if you had chains or  
20 slings wrapped around the forks and a load  
21 suspended with a hook, that potentially that  
22 would fall under the crane standard, and that

1 wasn't our intent. And we've also had a number  
2 of letters on this and inquiries asking us are  
3 forklifts carrying around things under the forks  
4 attached with hook, do they have to follow the  
5 crane standard, and a plain reading of this, you  
6 could say yes, that's true.

7           But that wasn't our intent from what we  
8 had written in the preamble, so we're proposing  
9 to change it to -- the exclusion be powered  
10 industrial trucks, forklifts, unless equipped  
11 with a boom and hoist. And we think that's much  
12 truer to what we wrote in the preamble that a  
13 forklift would really be quite modified to have  
14 qualities like a crane and should be covered  
15 under the standard.

16           MR. PRATT: Mr. Chairman, should we ask  
17 questions now, or do you want to wait?

18           MR. STAFFORD: No, I think that we should  
19 go. Please ask questions. I think that would be  
20 helpful.

21           MR. BOLON: This is the time.

22           MR. PRATT: Okay. This is Don Pratt.

1           I really -- and I've looked at this in  
2 great depth. I really don't see why a forklift  
3 is not a forklift is a forklift. I don't  
4 understand why when you put an attachment on a  
5 forklift, it may have a winch on it, that all of  
6 a sudden, the operator is going to be under the  
7 crane standard which, as we all know, takes a lot  
8 more in-depth knowledge and schooling and  
9 certification and so on and so forth.

10           In residential construction, we use these  
11 types of booms quite frequently to set trusses.  
12 There is really no need to have an operator have  
13 a crane certification when in fact, he's only  
14 lifting trusses that he's been doing forever this  
15 way and having to have all of the standards for  
16 cranes.

17           So my question is why don't we just  
18 exclude forklifts completely from this standard.

19           MR. BOLON: Well, that's what was  
20 proposed, and that was the draft text that came  
21 from the Advisory Committee. But we had comments  
22 in rulemaking that said -- that persuaded us that

1 if forklifts were modified with booms and winches  
2 and wire ropes that they begin to take on the  
3 characteristics of cranes, and we said we also  
4 liken this especially to multipurpose equipment.

5 And in the rulemaking, we made a  
6 determination if they were changed that much, if  
7 they had a boom, a hoist or a winch, wire rope,  
8 and hook and so forth, that they needed the  
9 protections to fall under the crane standard.

10 MR. PRATT: Well, again, this is Don  
11 Pratt. I would object to that. I think that's  
12 overkill.

13 I think the rule under 1926.602(c) covers  
14 it very adequately for forklifts. I don't see  
15 why we have to have this additional burden.

16 MR. STAFFORD: Okay. Thank you, Don.

17 Any other questions or comments from  
18 anyone on the phone on this issue?

19 MR. BOLON: Can I -- let me just for --

20 MR. STAFFORD: Yeah, please, Paul. Go  
21 ahead.

22 MR. BOLON: Make it clear what's going

1 on.

2           What we're proposing to do is, according  
3 to what -- the determination the agency made in  
4 rulemaking is that we said basically when a  
5 forklift is configured like a crane that it will  
6 fall under the standards. That was the  
7 determination, and then what we actually wrote  
8 was something that was much, much broader,  
9 because it could just be a hook. We said a winch  
10 or a hook. So what we're trying to do now is  
11 we're trying -- that is what we are trying to  
12 correct.

13           The issue about whether the forklifts,  
14 when they are configured like cranes should be  
15 covered at all, we're not trying to fix that  
16 right here, right now, because that was a  
17 determination made in rulemaking, and that's  
18 certainly a legitimate comment to make here or to  
19 make to the proposal, and we can consider it.  
20 But it's not something that's so easily fixed,  
21 because it was -- again, it was something that we  
22 did notice and comment on, we made a



1 determination on, and that's the way it came out.

2 MR. STAFFORD: Right. Okay. I  
3 appreciate that.

4 So that this language was adopted based  
5 on comments you received during the rulemaking  
6 process, and you're not changing the intent.  
7 You're just trying to clarify what it means with  
8 respect to forklifts.

9 MR. BOLON: Yeah. We're trying to not --  
10 we're trying to eliminate any confusion that if  
11 you are using a hook under the forks, if you have  
12 a sling or chain -- and this is fairly common  
13 that loads are carried around like that -- that  
14 you're not under the standard. Only if you add a  
15 boom and a hoist, which is a winch, a wire rope,  
16 and means of attachment, which is usually a hook.

17 MR. STAFFORD: Thank you.

18 Chuck, please.

19 MR. STRIBLING: Thanks.

20 One question. Unless equipped with a  
21 boom and hoist, so it takes two specific  
22 additions to that forklift to be considered under

1 the crane standard?

2 MR. BOLON: That's right. The "and" is  
3 very important, just like the winch or hook  
4 caught us because it could just be a hook and  
5 suddenly you're a crane, and that wasn't our  
6 intent.

7 MR. BETHANCOURT: Mr. Chairman, this is  
8 Jeremy Bethancourt.

9 MR. STAFFORD: Yeah. Go ahead, Jeremy,  
10 and then we'll go back to Chuck.

11 MR. BETHANCOURT: I think I understand  
12 how -- with the significance of the "and," like  
13 Chuck was saying, that particular part right  
14 there, the way I see it and the way that I see  
15 cranes utilized quite often with booms, that's  
16 not going to be as much of a burden as I can see  
17 in my area. I'm not in all areas, but by having  
18 the boom and hoist as the requirement, I think  
19 that's very restricting where it's actually going  
20 to apply, if I'm understanding that correctly,  
21 and that's what this is to clarify. Is that  
22 right? It has to be very specifically this

1 criteria to be covered under the crane standard  
2 and not as ambiguous as the original language.

3 MR. BOLON: Right.

4 MR. JUSS: And I'd also like to point out  
5 that both "boom" and "hoist" are defined terms in  
6 the standard, so it makes it very clear what you  
7 have to have to have the exclusion.

8 Just to remind you, hoist means a  
9 mechanical device for lifting and lowering loads  
10 by winding a line onto or off a drum. That's the  
11 way hoist is defined in the standard.

12 MR. STAFFORD: Thank you.

13 Chuck?

14 MR. BETHANCOURT: That's pretty  
15 significant.

16 MR. STAFFORD: Thank you, Jeremy.

17 Chuck, did you have something else on  
18 this?

19 MR. STRIBLING: Yeah, I did. I'm sorry.  
20 I should have asked earlier if we are taking  
21 questions all along, but back on the first  
22 proposed regulatory text with regard to

1 equipment, I'm sorry, I just don't remember off  
2 the top of my head. Is equipment defined in the  
3 subpart?

4 MR. JUSS: 1926.600 applies to -- it's in  
5 Subpart O, Motor Vehicles. That's the kind of  
6 equipment we're talking about here, not equipment  
7 under the crane standard.

8 The problem was that when the power line  
9 section from the crane standard was included in  
10 600, we carried over the terms "crane" and  
11 "load," rather than change it at that point to  
12 "equipment." But 600 does not apply to cranes.  
13 So leaving it at "crane" and "load" would simply  
14 be a technical error.

15 MR. STRIBLING: So, by use of the word  
16 "equipment" only in proposed regulatory text,  
17 that does or does not include load?

18 MR. JUSS: Well, I don't know that it  
19 makes much sense to talk about load when you're  
20 talking about motor vehicles. I guess you could  
21 have a load suspended from a backhoe.

22 MR. BETHANCOURT: Jeremy Bethancourt.

1           Where it was specifically --

2           MR. STAFFORD: Hold on a second.

3   Jeremy? Jeremy? Jeremy, do you hear me?

4   Jeremy?

5           MR. BETHANCOURT: Yes, sir.

6           MR. STAFFORD: Start all over, because we  
7 had someone talking here at the table.

8           MR. BETHANCOURT: Oh, I apologize. I did  
9 not hear. I apologize.

10          MR. STAFFORD: Do you want to make a  
11 comment?

12          MR. BETHANCOURT: Yes. I think it's  
13 prudent to differentiate "load" and "equipment,"  
14 because I recall, Mr. Chairman, you had asked  
15 that question, as well, and I think it is going  
16 to matter where there may be some ambiguity about  
17 whether something is equipment or a load if it's  
18 not specifically understood by folks when they  
19 read the text.

20          MR. BOLON: Yeah. I'm sorry. I confused  
21 people.

22          This section is --

1 MS. DAVIS: Pete, this is Tish. I second  
2 that, especially in juxtaposition to the change.  
3 It seems like they are now eliminating the load,  
4 rather than incorporating it.

5 MR. STAFFORD: Right. Okay, thank you,  
6 Tish.

7 Paul?

8 MR. BOLON: Actually, Bruce is correcting  
9 me. I forgot when we sorted out. This section  
10 where these words are being corrected are not  
11 actually in the crane subpart. They are actually  
12 in the motor vehicle subpart, and you don't  
13 normally think of those vehicles having loads  
14 like cranes do. So I don't think there's a loss  
15 since it doesn't really apply to them of having  
16 load there.

17 MR. STAFFORD: Chuck.

18 MR. STRIBLING: Mr. Chairman, that's why  
19 I made the point, based upon what Mr. Bolon said  
20 in his response. I was confused.

21 Now after this secondary response, I get  
22 it now. So I see why the change is made.

1 MR. STAFFORD: Okay.

2 MR. BOLON: Do you want to go back? Does  
3 anybody have any more comment on the correction  
4 to the forklift?

5 MR. STAFFORD: So what you are suggesting  
6 is powered industrial trucks, forklifts, unless  
7 equipped with a boom and a hoist.

8 MR. BOLON: Right.

9 MR. STAFFORD: That's the clarifying  
10 language.

11 MR. BOLON: Right.

12 Kevin?

13 MR. CANNON: And it is on page 4 where it  
14 says manipulates the suspended load by using  
15 components such as boom or jib. The jib is  
16 included in that, as well, or -- because as I  
17 understand it, there could be times where there  
18 may be a jib attached, but with a static line,  
19 nothing that runs on a drum or --

20 MR. BOLON: Yeah. We actually have a  
21 letter that's right on this, and apparently,  
22 there are forklifts.

1           I mean, somebody sent a letter in, it's  
2 an extended forklift. It actually -- I believe  
3 it kept the forks on. There is a boom attached,  
4 but there's no hoist, and they use it to set  
5 trusses. To me, that would go right up to the  
6 line, but since it doesn't have a hoist, it  
7 wouldn't be -- it wouldn't fall under the  
8 equipment covered by the crane standard.

9           MR. STAFFORD: I think that gets at the  
10 issue Don raised, as well.

11           Okay. Any more on that?

12           [No audible response.]

13           MR. STAFFORD: All right, Paul.

14           MR. BOLON: The next page, we're on  
15 exclusions still, (c)(17), and our changes here  
16 are just to clarify what the exclusions apply to  
17 and what they don't. It's really an editorial.  
18 Like you have (iii). It's making clear the  
19 exclusion in (c)(17)(ii) does not apply. So it's  
20 trying to get rid of the confusion.

21           And then down at the bottom on (d), it's  
22 again to point out that the activity is not



1 specifically excluded under c) (17) (ii). So these  
2 are really editorial, only editorial in nature,  
3 to emphasize what is excluded and what's not.

4           The next page is 1401, Definitions. When  
5 we wrote the final standard, we said we were  
6 going to include several, a number of  
7 definitions, and the four definitions on this  
8 page were omitted inadvertently. So we are  
9 proposing to add them now, and they are  
10 definitions for digger derrick, duty cycle,  
11 positioning device system, and repetitive lifts.

12           Do you think I need to read the  
13 definition, Pete, and go through it?

14           MR. STAFFORD: No, I don't think so. I  
15 think the Committee has had a chance to look at  
16 it. It looks pretty straightforward, I believe.

17           MR. BOLON: Okay.

18           MR. STAFFORD: Unless anybody -- no, I  
19 don't think so, Paul.

20           MR. BOLON: Okay.

21           The next thing we're correcting is we use  
22 two different phrases interchangeably in the

1 standard. One is -- and this relates to power  
2 line processes. We used either "minimum approach  
3 distance" or "minimum clearance distance," but we  
4 kind of changed back and forth through the  
5 standard, and we got some letters and calls on it  
6 that was causing some confusion.

7           So what we're doing here in 1401,  
8 Definitions, and then the next page, 1407, is to  
9 only use the "minimum clearance distance" and get  
10 rid of the "minimum approach distance" phrase,  
11 because they mean the same thing, and they were  
12 causing confusion.

13           The next provision we are proposing to  
14 change is under 1408, Power Line Safety, and this  
15 has to do with when you define a work zone.  
16 There are two ways to define a work zone. You  
17 can either identify the maximum operating radius  
18 of the crane, or you can demarcate the work zone.  
19 You can demarcate the boundaries to ensure that  
20 the crane operation doesn't exceed the  
21 boundaries.

22           And the change we are proposing here is

1 just to insert that second way of determining the  
2 work zone, because we had only mentioned -- if  
3 you look at top of page 4, it's the 1408  
4 provision. You could read it and forget that the  
5 second way of defining the work zone was also  
6 possible.

7           So we inserted the parenthetical "or if a  
8 demarcated boundary is used, the determination  
9 must be made with the assumption that the crane  
10 would be operated up to that boundary." So just  
11 by inserting this at the top in two places, we  
12 are just making it clear what you can do to  
13 fulfill the provision and not leaving the  
14 suggestion that you're only working at the  
15 maximum radius of the crane. So we think those  
16 are really just editorial.

17           And then on the same page, we also had a  
18 couple of corrections again to the "minimum  
19 approach distance," replacing it with the  
20 "minimum clearance distance."

21           And on the next page, still substituting  
22 "minimum clearance distance" for the "minimum

1 approach distance."

2           And on to -- again, it's still in 1408,  
3 Power Line Safety. We had had a couple of  
4 letters asking about whether the voltages, the  
5 high voltages that are in two of our tables  
6 applied both to alternating current and direct  
7 current, and I don't believe this was really a  
8 topic that came up in rulemaking, but it was our  
9 intent for them to apply it to either kind of  
10 voltage.

11           So in order to make this apply to both  
12 alternating current and direct current, if you  
13 see under 1408, Table A, we are just dropping the  
14 alternating current, so that it will apply the  
15 voltage to whatever type of current you have in  
16 the lines.

17           Then the next highlighted things, again,  
18 are replacing "minimum approach distance" with  
19 "minimum clearance distance," and then in 1411,  
20 the Table T is the same change on the type of  
21 current. We are just dropping the words  
22 "alternating current" in the title of the table,

1 so that the voltage will apply both to direct  
2 current and alternating current.

3           And then the top of the next page, we're  
4 in 1412, Inspections, and then where it says on  
5 the existing text, it says "must apply," and on  
6 the right, we're proposing to drop the "must."

7           I think when the final reg text was done,  
8 there was a substitution of "must" for "shall,"  
9 and occasionally, it led to some inadvertent  
10 insertions of "must." So the next several pages  
11 have a number of these where we are taking about  
12 "must" and replacing it with "may," and that's  
13 what that change is up there. Instead of saying  
14 "must apply," we just say "applies," because it  
15 reads more clearly.

16           The next revision again is under 1412,  
17 Inspections. We're just adding a couple of  
18 titles to the provisions. Under 1412(j), we are  
19 just inserting the title "manufacturer's  
20 recommended inspections," because that's the  
21 subject of this subparagraph, and then the same  
22 on paragraph (k), we're just putting a title in,

1 "availability of inspection documents," so it  
2 will be easier to understand what is in the  
3 provision.

4           Then on to the next page at the top, we  
5 have a "must not apply" in the current text, and  
6 it reads much better to say that it "does not  
7 apply," and the next box down, the wire rope, we  
8 say the ropes "must be used only" instead of we  
9 -- our intent was to say the rope "may be used  
10 only." So it's again to really -- to us, it's  
11 editorial.

12           Also in the box below that, under 1416,  
13 Operational Aids, we just left out the word  
14 "and," so we're proposing to insert that there.

15           The next page, under 1417, again, we are  
16 revising the word "must" to "may," to make our  
17 intent clearer and make it more readable.

18           The next one, we're correcting an error  
19 under "fall protection. Where we said in the  
20 final "either body belts or body harnesses must  
21 be used in a personal fall arrest system and fall  
22 restraint system," it's been a longtime OSHA

1 policy that only harnesses can be used in  
2 personal fall arrest system and not body belts.  
3 So we're correcting that to say either body belts  
4 or body harnesses must be used in personal fall  
5 restraint systems, and body harnesses must be  
6 used in personal fall arrest systems.

7           The next change under 1423 again is  
8 fixing a "must be anchored" to "may be anchored,"  
9 same change lower in that paragraph, systems  
10 "must be anchored" or "may be anchored," and the  
11 next several are also editorially fixing,  
12 replacing the word "must" with "may."

13           MR. STAFFORD: So, Paul, if I may, on  
14 this 1926, 1423(g)(2)(i)-(ii), what is "must"  
15 being replaced by "may accomplish" on that? I'm  
16 a little bit confused by that.

17           MR. BOLON: On which one? 1423?

18           MR. STAFFORD: (g)(2)(i). So that your  
19 explanation for the amendment is could be  
20 misinterpreted to mean that the systems and the  
21 standard are not required to be anchored to the  
22 equipment if a competent person concludes that

1 the criteria is not met. I'm not sure what  
2 you're accomplishing there with that change.

3 MR. JUSS: The way it's written now with  
4 "must," that would be the only place you could  
5 anchor a personal fall arrest system to. By  
6 putting in "may," you are giving the employer  
7 somewhat more flexibility. If there is a part of  
8 the building, for instance, where they could  
9 anchor it to, then saying "may" rather than  
10 "must" would give them that flexibility.

11 MR. STAFFORD: So, in this language, it  
12 may be just because I'm not understanding.  
13 You're saying -- does the competent person have  
14 to verify that that's a viable anchorage point?  
15 Because I am not seeing what a competent person  
16 -- what the connection here with a competent  
17 person is.

18 MR. JUSS: Well, under the current  
19 version, using the word "must," the competent  
20 person doesn't come in until you have already  
21 anchored the system. In other words, you must  
22 anchor it to the equipment, and then if the



1 competent person determines that that wouldn't be  
2 adequate, then you don't have any option.

3 By saying "may," if the competent person  
4 determines that anchoring it to the equipment is  
5 not adequate, then you still have the option of  
6 devising some other form of anchor.

7 MR. STAFFORD: Okay.

8 MR. BOLON: It's just that "must" just  
9 doesn't work there.

10 MS. DAVIS: But I certainly see that  
11 "may" doesn't work there, either. The sentence  
12 is awkward.

13 MR. JONES: That is probably not the only  
14 other place --

15 MR. STAFFORD: Go ahead, Walter.

16 MR. JONES: Walter Jones.

17 That doesn't seem like that's the only  
18 place where "must" and "may" aren't as easily  
19 interchangeable as we may like. Like the next  
20 box on 1425 jumps out to me, as well.

21 Has OSHA done this in the past, went from  
22 "must" to "may," and is that common or uncommon?

1           MR. JUSS: Traditionally, what OSHA used  
2 is a "shall."

3           MR. JONES: Yeah, I know. That's why I'm  
4 --

5           MR. JUSS: The proposal used "shall"  
6 everyplace now where "must" appears.

7           In a lot of place, it said the employer  
8 "must" -- or the employer "shall" do this, and  
9 the decision was made to say that it's clear to  
10 say the employer "must" do this rather than the  
11 employer "shall."

12          MR. JONES: Yeah, I agree with that.

13          MR. JUSS: But unfortunately, in doing  
14 that, every place where "shall" appeared, even  
15 when it didn't say the employer "shall," "must"  
16 was put in place of "shall," and that gave rise  
17 to a lot of places where "must" just didn't work.  
18 Grammatically, it was not the right word to use,  
19 and that's what we're trying to correct.

20          MR. BOLON: We don't think we're relaxing  
21 the requirements, unless you are reading it that  
22 way that in fact we are.

1           MR. JONES: Well, that's my reading of  
2 it. I'm just saying it may not be our fault, but  
3 I don't know.

4           Like no employee may be directly under a  
5 load versus no employee must be. Yeah, I don't  
6 know.

7           MR. BOLON: Yeah. "Must" isn't very  
8 good, but maybe we can do something better.

9           MR. BETHANCOURT: The word "should"  
10 probably would work better.

11          MR. JONES: "Should" would be excellent,  
12 yeah.

13          MR. STAFFORD: Who was that, Jeremy?

14          MR. BETHANCOURT: Yeah, this is Jeremy.

15          MR. STAFFORD: All right. Remember, if  
16 you're on the phone, if you want to make a  
17 comment, please announce yourself for the  
18 recorders.

19          MR. JUSS: "Should" traditionally is  
20 understood to be advisory rather than mandatory,  
21 so it's just a word that we don't like to use.

22          MR. GILLEN: That's the question, I think.

1 Are you saying that it's a requirement or an  
2 advisory thing? Because it used to be people  
3 used either "shall" or "should," and it seems  
4 like there's the same relationship with "must"  
5 and "may." SO it sounds like you're saying these  
6 things are advisory. So you're saying that it's  
7 advisory that no employee should be under the  
8 load versus a requirement that no employee be  
9 under their load. It needs to be -- so are you  
10 saying there is a requirement or an advisory for  
11 that?

12 MR. JUSS: No, it's a requirement.

13 MR. GILLEN: Okay. So then if it's a  
14 requirement, is "may" the best term to make that  
15 clear, or is there another term?

16 MR. BOLON: It sounds like in a few of  
17 these that "shall" would be more direct.

18 MR. STAFFORD: It seems like it. I think  
19 it is a definitional thing. If you look at it,  
20 as Kevin just said, when you say you must, you  
21 must, and you may, that's kind of a voluntary  
22 kind of thing.

1 MR. GILLEN: Right. It breaks down.

2 MR. BOLON: We hear you.

3 MS. DAVIS: This is Tish, Pete.

4 MR. STAFFORD: Yes, Tish.

5 MS. DAVIS: I think the issue is that in  
6 some places, it works and does clarify things,  
7 but in other places, it doesn't work. They each  
8 need to be considered.

9 MR. STAFFORD: Separately, right. Okay,  
10 Tish. Thank you. We're getting a nod of heads,  
11 so I think there's agreement on that. Thank you,  
12 Tish.

13 MR. BOLON: That is something we will  
14 relook at. I don't think you want to go sentence  
15 by sentence here.

16 MR. STAFFORD: Right.

17 MR. BOLON: So getting past the "must"  
18 and "may," we get to 1433, Design. We just had a  
19 typo there. We had a reference to 1414(c)(4),  
20 and it should have been (e)(4).

21 The next one is another "must" and "may,"  
22 and then on to 1437, Floating Cranes, again,

1 their editorial, "must not exceed" versus "does  
2 not exceed," "does not exceed" versus "must not  
3 exceed." We will look at those again in light of  
4 what we just said here.

5 The last one is a correction to the hand  
6 signals. Simply where we had said that -- we had  
7 said the direction of rotation was away from the  
8 body, and it should have been the opposite. It  
9 should have been towards the body, so that's just  
10 fixing a mistake we made, and that's the last  
11 one.

12 MR. STAFFORD: Okay. Thank you, Paul.

13 Any questions or comments from Committee?

14 Kevin.

15 MR. CANNON: Just what is the time frame?

16 I know the last group said end of next month.

17 What are you guys looking at?

18 MR. BOLON: Well, if we get a  
19 recommendation from you guys, we have a draft  
20 proposal, and, boy, I mean, we're not -- I mean,  
21 we'll put it into clearance probably within a  
22 month. After that, it's hard for us to give a

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1 time table on how long the clearance process -- I  
2 can tell you, we're pretty much finished writing  
3 the Federal Register Notice, so we're pretty  
4 close. We're ready to go.

5 MR. CANNON: Then the comment period  
6 would be?

7 MR. BOLON: It is usually 30 days, I  
8 would think. I don't -- for things that are not  
9 largely, usually controversial.

10 MR. CANNON: Right.

11 MR. BOLON: But do you have anything to  
12 say, Sarah?

13 MS. SHORTALL: I think most of the time,  
14 we've allowed 60 days on it.

15 MR. BOLON: Okay. Yep.

16 MR. CANNON: So is that 60?

17 MR. STAFFORD: Yeah.

18 MR. BOLON: Are you saying we should do  
19 60 days? Okay.

20 MR. STAFFORD: Yes, Chuck. Please.

21 MR. STRIBLING: I'm sorry. I had a  
22 question I feel asleep on earlier back under

1 definitions. For digger derrick, the one thing I  
2 noticed in that definition is it does not say  
3 "vehicle mounted." I know that ANSI doesn't  
4 specifically define digger derrick, but in the  
5 scope of the ANSI, it refers to multipurpose  
6 vehicle-mounted equipment. Was that intentional  
7 on the agency's part not to mention vehicle  
8 mounted?

9 MR. BRANCH: I don't even think we  
10 considered it. We're just taking the definition  
11 verbatim.

12 MR. STAFFORD: Marvin, can you speak into  
13 the microphone, please?

14 MR. BRANCH: I said I don't think that  
15 this was even considered as far as whether it  
16 would be limited to vehicle mounted. It's  
17 something maybe we should take a look at.

18 MR. STRIBLING: Yeah. I think that's a  
19 pretty huge distinction between the ANSI and the  
20 agency standard when the national consensus  
21 standards specifically in their scope refers to  
22 vehicle mounted and the agency standard doesn't.



1 I'm not saying it should or shouldn't. I'm just  
2 saying maybe it needs consideration.

3 MR. BOLON: Okay. I mean, we did think  
4 that what a digger derrick is, is pretty well  
5 known, so we're not trying to do a lot with the  
6 definition.

7 MR. STAFFORD: So just for timing, I know  
8 one of the issues that OSHA is dealing with now,  
9 and this has a series of stakeholders meetings  
10 coming up with the issue of training by type and  
11 capacity in the certification, as you open this  
12 rule up, is that going to be -- how does that  
13 relate to that issue right now in terms of  
14 revising the rule to address that issue?

15 MR. BOLON: Well, we think that these  
16 changes are largely not controversial, and, I  
17 mean, I'm not anticipating having any hearings,  
18 for example. We'll have a comment period. We  
19 don't think that these are so involved or so  
20 difficult that we can't just go to final.

21 The type and capacity issues for crane  
22 operator certification, that's a big issue, and

1 like you just mentioned, we're having stakeholder  
2 meetings on the 2nd and 3rd here, and we're not  
3 sure we're going to collect information about  
4 where things are at and what we might do.

5           We don't have any plan right now. It  
6 depends on what we learn from the stakeholder  
7 meetings. It's not clear exactly which way we're  
8 going forward on that, but it's separate from  
9 this.

10           Type and capacity, if we had to do  
11 something, that would be a big deal.

12           MR. STAFFORD: Right. No, I understand  
13 that.

14           Chuck, please.

15           MR. STRIBLING: Along the same line, as  
16 well, the Direct Final Rule on the digger derrick  
17 exemption was withdrawn, if I understand  
18 correctly, due to adverse comment?

19           MR. BOLON: We got an adverse comment on  
20 the Direct Final Rule, and we're proceeding with  
21 the Final Rule.

22           MR. STRIBLING: So this would be separate

1 than that?

2 MR. BOLON: Yes. That's already in  
3 clearance, so...

4 MR. STAFFORD: Okay. Any public  
5 comments? Anyone sign up to comment on the  
6 issue?

7 Yeah, please. Come on up.

8 MR. POCOCK: Thank you, Mr. Chairman.

9 MR. STAFFORD: You're welcome.

10 MR. POCOCK: Chip Pocock with the Steel  
11 Erectors Association of America.

12 MS. SHORTALL: Could you spell your name  
13 please?

14 MR. POCOCK: P-o-c-o-c-k, first name,  
15 Chip.

16 I just had a couple brief comments on a  
17 couple things. Definitions. Definitions, one,  
18 the difference between duty cycle and repetitive  
19 lifting. I'm curious as to why we need both in  
20 the standard and as far as definitions go.

21 MR. STAFFORD: Where is that? I'm sorry.  
22 What section?

1           MR. POCOCK:  It's on page 7, Pete.  The  
2 definition of duty cycle is there, and then  
3 further on, on page 9, the definition of  
4 repetitive lifting.

5           MR. STAFFORD:  So you were saying one or  
6 the other?

7           MR. POCOCK:  I think the crane industry  
8 understands duty cycle work.  It's spelled out in  
9 a lot of the load charts, and people understand  
10 what it means.

11           By defining it in the way we have here,  
12 there's an assumption made because of -- that  
13 there's a rapid transfer of a load of bulk  
14 material from one point to another, there's  
15 really no difference in that and a repetitive  
16 lift, although -- well, both may be picking  
17 various weights and loads and doing it rapidly,  
18 but the industry understands duty cycle.  We just  
19 don't -- repetitive lifts isn't something that  
20 the crane industry really understands.  Just an  
21 overall comment.

22           MR. STAFFORD:  Okay.

1           MR. POCOCK: I would agree, I think, with  
2 Dan. One of the issues that I think our  
3 association has with the telehandler, with the  
4 forklift exclusion -- I commend the agency for  
5 going 90 percent of the way to correct an error.  
6 The original C-DAC Committee did not have, did  
7 not -- never intended for telehandlers or  
8 forklifts to be covered by the standard.

9           There is reference in this doc to  
10 multipurpose machines. The intent was -- there's  
11 at least two manufacturers. I know Manitou and  
12 Terex at the time -- I'm not even sure whether  
13 Terex still manufacturers one, but it is a  
14 telehandler that physically rotates. It is  
15 equipped from the factory with forklifts, but yet  
16 it has a number of different attachments. It has  
17 out-riggers, and it has an extendable boom.

18           What makes it different from your  
19 standard telehandler is that the upper section  
20 actually rotates on the chassis or the car body.

21           Those machines, the intent of the  
22 Committee, I think, was for those rotating

1 telehandlers, because they are -- they have all  
2 the characteristics of a crane that they should  
3 have been covered by the standard. However, your  
4 standard telehandler, 6,000-, 8,000-, 10,000  
5 pound, Lulls, JLGs, with a hook, with a boom,  
6 whatever, are not covered, because they're  
7 covered by another standard.

8           So I think you -- you're going 90 percent  
9 of the way. I think what's going to confuse the  
10 industry is to continue to include the word  
11 "boom," even though it's "boom" and "winch."

12           MR. BOLON: And "hoist."

13           MR. POCOCK: Or "hoist," yeah.

14           MR. BOLON: So you're saying it would be  
15 clearer if it's not excluded if it has a hoist"?

16           MR. POCOCK: Yes. I mean, I think I'd  
17 have to look at the text, but I think what has  
18 confused people now, many of the manufacturers --  
19 and then there's this aftermarket where you can  
20 take a standard telehandler and put a boom on it,  
21 and I'd say all, 99 percent of them, come from  
22 the factory with a hook.

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1           What we recommended to our membership is,  
2 based under the current guidance that OSHA has  
3 provided, to simply take the hook off and replace  
4 it with a shackle.

5           MR. BOLON: Yeah. It never made sense  
6 just to have the hook there just for the means of  
7 attachment.

8           MR. POCOCK: It's semantics, and I guess  
9 I was part of the problem, because I sat on the  
10 C-DAT Committee, but here we are almost 10 years  
11 later, and we're still trying to clean this thing  
12 up. I just think that the industry needs to  
13 understand. We need to get rid of covering  
14 forklifts, unless they are rotating telehandlers,  
15 and then I think it was the intent of the  
16 committee that they be covered. So however we  
17 can do that in the language to make it clear to  
18 everybody out there, the controlling contractors,  
19 is where you get into trouble with our membership  
20 and I'm sure Kevin's membership and everybody  
21 else's. There's some confusion out there, and we  
22 certainly don't want to get all these people

1 having to go through the CCO process.

2 Those are the crux of my -- I think this  
3 goes a long ways to clean some of the things up  
4 in the standard.

5 MR. STAFFORD: Appreciate that, Chip.

6 Any questions or comments for Chip?

7 MR. POCOCK: Oh, I did have one other  
8 thing, Pete. I'm sorry.

9 Walter, to your point, some of the "must"  
10 and "mays," this standard, because it was  
11 negotiated, especially the one on fall  
12 protection, I think it's 1423(g)(2)(ii), the  
13 intent there is if you have a guy using fall  
14 protection on a crane, there's rotational  
15 hazards. The drums are turning on other  
16 rotational equipment.

17 So if a competent person deems that you  
18 can't tie off here, you can tie off somewhere  
19 else, so that the employee isn't exposed to tying  
20 off on rotational equipment to get sucked into a  
21 drum or something, so that's kind of the  
22 give-and-take.



1           MR. STAFFORD: Okay, thanks. Thanks for  
2 your comments, Chip. I appreciate it.

3           Another? Yes, please.

4           MS. CORDARO: I'm Tressi Cordaro. I'm  
5 with Ogletree Deacon, representing the Edison  
6 Electric Institute.

7           I just wanted to make a couple comments  
8 regarding the definition of digger derrick. I  
9 think as an opening comment, I kind of want to  
10 point out that the documents weren't made public  
11 in the ACCSH dockets, despite a request, a timely  
12 request from a public commenter that the  
13 documents be made public, so that we could figure  
14 out what definitions were being proposed. So,  
15 therefore, we just got these proposed definitions  
16 late Friday evening, have not had a chance to  
17 fully assess the impact of some of these  
18 definitions, specifically related to digger  
19 derricks, the definition of digger derricks,  
20 which is our biggest concern.

21           So we haven't had a chance to assess our  
22 membership to find out the impacts of the

1 definition on EEI's members. So that's the first  
2 point.

3 The second point is, as we read it, the  
4 definition --

5 MR. STAFFORD: A little bit of dig, huh?

6 [Laughter.]

7 MR. CORADRO: Well, with all due respect,  
8 it was requested to be made public, so we just  
9 can't give you guys any information on the  
10 impact. We can speculate, but we can't give you  
11 enough information.

12 The second point I want to make is that  
13 the definition that is being proposed is unclear.  
14 Initially, I thought it was unclear as to what  
15 the word "equipped" was, because it can be read  
16 in different manners, but based off the earlier  
17 discussion when we talked about -- Chuck  
18 mentioned equipped, the definition for forklift,  
19 boom and hoist. The intent from the agency is  
20 that equipped means that the auger is actually on  
21 the digger derrick, correct?

22 MR. BOLON: Uh-huh.

1 MS. CORDARO: Okay.

2 So there are instances where a digger  
3 derrick may not have -- it may have the rotating  
4 motor, the auger shaft on, but it may not have  
5 the auger drill on, and it may have a Kelly bar  
6 on. And it may be used to set up pad mount  
7 transformer for Subpart B work.

8 So I guess my point is if the agency's  
9 intention is that it's equipped with just an  
10 auger, you are substantively changing the  
11 exclusion that's in the current standard now and  
12 what would possibly be the exclusion based on the  
13 Final Rule that would come out, based on the  
14 settlement agreement with Edison Electric. And  
15 that issue is a separate issue that we would  
16 raise with the agency.

17 The ANSI definition, this is a point you  
18 had raised -- the ANSI definition refers to  
19 "designed to accommodate components." I think we  
20 would --

21 MR. BOLON: Could you repeat that?

22 MS. CORDARO: The ANSI definition refers

1 to "designed to accommodate components." In the  
2 ANSI, it's ANSI A10.31, I believe. That would be  
3 more an appropriate definition in our opinion;  
4 however, again, we have not had a chance to fully  
5 assess our membership and the impact and poll.  
6 Jim Tomaseski may get into a little more  
7 specifics.

8 MR. STAFFORD: So I can -- I'm sorry. So  
9 I understand, you're saying if we move forward  
10 and adopt these revised definitions, that it will  
11 change the exclusion for digger derricks. Is  
12 that how I am understanding?

13 MS. CORDARO: Absolutely.

14 MR. STAFFORD: Okay.

15 MS. CORDARO: The scope of the standard  
16 itself is quite broad. The definition for digger  
17 derricks is only applicable to the exclusion. Do  
18 you see what I'm saying? So the definition  
19 itself applies really only to the exclusion. So  
20 it's narrowing the exclusion to a digger derrick  
21 with an auger attached, and a digger derrick can  
22 be used --

1           MR. BOLON: But you don't have any  
2 specific language which would leave a better  
3 description?

4           MS. CORDARO: I think the ANSI A10  
5 language would be -- again, that would be -- over  
6 the ANSI definition and over your proposed  
7 definition, ANSI absolutely. But I just --  
8 again, we haven't had a chance to assess this  
9 with our members to find out if there's a more  
10 appropriate -- or whether the ANSI definition  
11 would have some impact, as well. But if a  
12 recommendation were to be made, our opinion would  
13 be the ANSI definition.

14           MR. BOLON: Well, in the Final, we  
15 promise to offer a definition. This is our draft  
16 language, so --

17           MS. CORDARO: Well, but that draft  
18 language wasn't in the Final Rule itself. So not  
19 only was there not a proposed definition in the  
20 Proposed Rule, there was not a definition even in  
21 the discussion. Although you said you were going  
22 to add a definition, there was no definition in

1 14(c)(2).

2 MR. BOLON: No, there wasn't. We  
3 promised one, and we're trying to provide one,  
4 so...

5 MS. CORDARO: No, my point is it's not  
6 like you inadvertently omitted a definition that  
7 you discussed in the discussion section. The  
8 definition wasn't even included in that.

9 MR. BOLON: Right.

10 MS. CORDARO: So our opinion is obviously  
11 it's going to limit the exclusion.

12 MR. BOLON: Gotcha.

13 MS. CORDARO: Right.

14 And I guess a few points as to why we  
15 believe it's non-substantive. I think you hit on  
16 -- well, first of all, it wasn't proposed in the  
17 Notice of Proposed Rulemaking, the Final Rule.  
18 It wasn't discussed at all, and then, again, for  
19 us, based on what we believe to be the Final Rule  
20 that may potentially be issued, EEI members could  
21 go in and out of -- which is the very thing we  
22 tried to avoid doing with the settlement

1 agreement with OSHA to begin with.

2           If this definition were to move forward,  
3 we could go in and out. Our members could have  
4 digger derricks going in and out of coverage  
5 within the same day. If the auger is left off  
6 and taken off to add the Kelly bar and they move  
7 a pad mount transformer, well, then they're  
8 covered. You put the auger back on to move the  
9 same pad mount transformer, and they're excluded.  
10 Does that make sense?

11           MR. BOLON: Yes.

12           MS. CORDARO: Okay. And then I guess  
13 another point -- this is more to Sarah -- there  
14 is no explanation for the deviation from an ANSI  
15 standard, if the agency were to deviate from ANSI  
16 under Section 6 of the Act.

17           MS. SHORTALL: I guess I don't know what  
18 description of that there is in the proposal.  
19 The deviation language may be such, there is no  
20 -- other than language, there is no real  
21 difference in the effect of the standard or  
22 effectiveness of the standard.

1           If it is the latter, then the need for  
2 the explanation would not necessarily be  
3 required.

4           MS. CORDARO: Okay. Well, our opinion  
5 would be that there would be a substantial -- I  
6 mean, we have also pointed out vehicle mounted  
7 versus not vehicle mounted, so there would be a  
8 substantial deviation from the ANSI standard, in  
9 our opinion. That would require an explanation  
10 from the agency.

11           MR. BOLON: So do you think there is an  
12 advantage in having a definition at all?

13           MS. CORDARO: You know, honestly, I can't  
14 answer that immediately. I don't know if Jim can  
15 weigh in on that. I don't know if Chuck has some  
16 initial thoughts, but without polling our members  
17 and kind of discussing this -- again, this was  
18 like six o'clock on Friday, and so we're all kind  
19 of, you know, rushing this morning and late  
20 Friday night to kind of give you some information  
21 back, to give you some feedback from our members.  
22 I couldn't tell you.



1 MR. STAFFORD: Chuck?

2 MR. STRIBLING: Yeah. Where you were  
3 talking about deviation, I'm kind of scratching  
4 my head, and it sort of leads to the question Mr.  
5 Bolon asked.

6 When I read the ANSI standard, digger  
7 derrick is not defined.

8 MS. CORDARO: That's correct.

9 MR. STRIBLING: There are definitions for  
10 digger and there are definitions for derricks,  
11 center of gravity, la-dee, la-dee-dah, but there  
12 is no definition for digger derrick.

13 MS. CORDARO: There's a scope coverage  
14 which --

15 MR. STRIBLING: Correct.

16 MS. CORDARO: Right. Explains what the  
17 scope of the ANSI standard applies to.

18 MR. STRIBLING: Right. So maybe that's  
19 an answer to your question. I'm not saying it  
20 shouldn't be defined, but it kind of makes me  
21 wonder if the national consensus standard doesn't  
22 define it, why didn't they? I wasn't on that

1 committee. I can't answer that question.

2 MR. STAFFORD: I don't think any of us  
3 were, actually.

4 Paul?

5 MR. JUSS: They didn't define it, but  
6 they have lots of pictures showing what they  
7 intended, and they all have augers on them.

8 MS. CORDARO: And that's fine, but again,  
9 if that's the definition that's being proposed,  
10 we believe it's a substantive change that doesn't  
11 warrant technical amendment. It warrants a  
12 Proposed Rule, which is what I guess I hear the  
13 agency intends to do, but in addition, it  
14 substantively impacts the settlement agreement  
15 that was reached with Edison Electric regarding  
16 the exclusion of digger derricks in relation to  
17 Subpart B work.

18 MR. JUSS: But that settlement agreement  
19 didn't have a definition.

20 MS. CORDARO: Right, because the agency  
21 hadn't proposed one, originally.

22 MR. BOLON: Well, but it was a settlement

1 agreement.

2 MS. CORDARO: Wait. We settled on the  
3 language as it existed at the time, which would  
4 substantively change that settlement agreement.  
5 You would narrow the exclusion even further than  
6 what was agreed upon, but that would be an issue  
7 that we would take with the agency. That's not  
8 an ACCSH issue.

9 MR. BOLON: Do you find --

10 MS. CORDARO: Other than that's the  
11 definition of digger derricks --

12 MS. SHORTALL: Mr. Chair? Mr. Chair? We  
13 have another representative here from the  
14 Solicitor's Office who worked on the Proposed  
15 Rule, as well as the challenges to it. It might  
16 be helpful if he came up to give some  
17 clarification.

18 MR. STAFFORD: Who is that?

19 MS. SHORTALL: Mr. Euell, Richard Euell.

20 MR. EUELL: Richard Euell.

21 With respect to the settlement agreement,  
22 OSHA entered into a settlement agreement with EEI

1 and agreed to propose a rule, and we did do that.

2 I think what Ms. Cordaro is talking about  
3 is that the digger derrick exemption is an  
4 exemption that would apply to digger derricks.  
5 So any definition that is applied would affect  
6 the scope of that definition.

7 MS. CORDARO: Right.

8 MR. EUCELL: Whether or not it gets  
9 changed to what was agreed to as part of the  
10 settlement, I don't think is really the issue.

11 MS. CORDARO: That's right.

12 MR. EUCELL: That was all I was going to  
13 say.

14 MR. BOLON: Let me say we were not trying  
15 to affect the settlement agreement with our  
16 definition.

17 MS. CORDARO: I recognize that, but --

18 MR. BOLON: We merely said we were going  
19 to provide these definitions, and that's what we  
20 are trying to do.

21 MR. STAFFORD: So, as I understand it,  
22 then by adopting these definitions, then we are.

1 This does impact what you agreed to in the  
2 settlement agreement, right?

3 MR. EUCELL: What we agreed to in the  
4 settlement agreement was to propose the rule we  
5 proposed.

6 [Laughter.]

7 MR. EUCELL: But I think it would be  
8 unfair to say that it wouldn't have any effect in  
9 the real world if you defined digger derrick  
10 differently than what -- if we made a substantive  
11 change that would affect the scope of digger  
12 derricks, but the digger derrick definition was  
13 not part of the settlement.

14 I think everybody -- the point of the  
15 settlement was to get to exempting activities  
16 that went beyond, including listing transformers  
17 onto the ground.

18 So I think what Ms. Cordaro is saying  
19 that if you have an auger that is not attached at  
20 the time and you are using the equipment to lift  
21 something onto the ground, that that would change  
22 the way potentially that the exemption could

1 function.

2 MR. STAFFORD: Okay. I understand that.  
3 I'm just trying to understand if we take action  
4 today, that OSHA proceeded and it impacts the  
5 settlement agreement, what does that mean? For  
6 those of us that are in the dark, like me, I  
7 don't really know much about the settlement  
8 agreement, other than there is a settlement  
9 agreement.

10 MR. EUCELL: Just to be clear, the  
11 settlement agreement was that OSHA would issue a  
12 rule, a Proposed Rule, and it has done that, and  
13 the settlement agreement has been fulfilled. The  
14 case has been dismissed. So you are not going to  
15 affect a settlement agreement per se in the legal  
16 sense.

17 MS. CORDARO: Well, I mean, to some  
18 extent, I would maybe disagree with that, because  
19 I would argue if -- and in part, I think our  
20 recommendation would be that ACCSH hold off on  
21 this particular issue, and maybe the agency can  
22 reopen the ACCSH record for additional comments.

1           But I guess my point with what you just  
2 said is that, to some extent, we may argue, go  
3 back in and argue that the agency didn't settle  
4 in good faith. I mean, again, that's an issue  
5 that we would take internally.

6           MS. SHORTALL: I think we're here for the  
7 purpose of discussing the Proposed Rule and not  
8 here for the purpose of bringing up issues that  
9 should have and could have been brought up during  
10 the settlement agreement, and I think we should  
11 be concentrating here on the Proposed Rule.

12           Ms. Cordaro, I would suggest that some of  
13 the issues you have already raised are things  
14 that the agency might very well have concluded,  
15 should have been brought up during the original  
16 challenge to the rule, and would not be germane  
17 to this Proposed Rule.

18           So I think that needs to be added into  
19 the mix to understand how the agency might  
20 proceed on these proposed amendments of  
21 corrections.

22           MR. STAFFORD: All right. Thank you,

1 Sarah.

2           Again, Paul, I am not sure where this  
3 leaves us. It seems like we have some cleaning  
4 up to do. I mean, if Chip would say that -- you  
5 know, on these what look like on appearances look  
6 like minor things that were pretty easy to do and  
7 if we're 90 percent there, what do we need to do  
8 to get to 100 percent there, to make sure there  
9 is no confusion or ambiguity before we take  
10 action on proceeding.

11           MR. BOLON: Well, I think I will ask  
12 counsel. I will ask Sarah.

13           I mean, we bring proposals to you to get  
14 your recommendations.

15           MS. SHORTALL: We've specifically asked  
16 you to make a recommendation today about this  
17 Proposed Rule. Your recommendation might be to  
18 proceed with it. It might be to not proceed with  
19 it. It might be to do something else, but today,  
20 what is asked for this body, to make a  
21 recommendation to the agency.

22           MR. BOLON: Okay. Well, I appreciate --



1 MS. SHORTALL: This is also on the  
2 record. So, certainly, the agency will be able  
3 to view the transcripts of any public comments  
4 that have been made during their entire  
5 rulemaking, and this record here will be part of  
6 the record as a whole that the agency will use to  
7 make any final decisions on its proposed  
8 amendments and correction.

9 MR. BOLON: I think maybe the question  
10 that I am interested in is, does any  
11 recommendation, is it a commitment to every word  
12 and letter as specified here, or is it a little  
13 bit broader than that? Because we talked about  
14 fixing some of the editorial things like on the  
15 "may," "must," "shall" thing and --

16 MS. SHORTALL: Well, I think the agency  
17 is going to have to make a decision about how it  
18 will receive ACCSH's recommendations, remembering  
19 that the only statutory duty OSHA has is to come  
20 here and ask for recommendations and make sure  
21 that we have allowed a chance for ACCSH to give  
22 the recommendations, plus additional comments,

1 and that you must consider them and answer those  
2 in the Proposed Rule and in the Final Rule.

3 There is no commitment by the agency to adopt  
4 anything. There is no requirement.

5 MR. STAFFORD: All right. Thank you,  
6 Sarah.

7 Chuck, do you want to comment?

8 MR. STRIBLING: Yeah. Sarah sort of hit  
9 on what I was going to say. I mean, we make  
10 recommendations. It's up to the agency if they  
11 want to follow those recommendations or not or  
12 tell us to go fly a kite.

13 Now, personally -- I mean, this will be a  
14 Proposed Rule, and it will go out there for  
15 comment. I bet people are going to comment, you  
16 know, depending upon the definition or lack of  
17 definition for digger derrick or how that's going  
18 to be examined. I suspect some state plans may  
19 comment.

20 It's also important to remember that that  
21 settlement agreement does not necessarily apply  
22 in half the nation-plus, in the 27 state plans.

1 They are not mandated to abide by that settlement  
2 agreement. I'm not saying they do, not saying  
3 they don't, but it doesn't really address the  
4 issue on a truly national perspective, but that's  
5 beyond -- I'm sorry. I didn't mean to get off on  
6 that.

7           So I don't have a problem with a  
8 recommendation to the agency if we looked at  
9 this, saying, you know, we recommend it and maybe  
10 OSHA review the "may" and the "must" and the  
11 "shall" and the "shoulds," and maybe take a  
12 second look at the digger derrick. And what they  
13 proposed is what they propose, and then we have a  
14 second shot to comment, and they will have to  
15 address that comment before they issue the rule.

16           I think it's healthy to get it out there,  
17 to get a comment, so that the issue maybe could  
18 be settled in a broader perspective than just a  
19 settlement agreement that's really nonbinding in  
20 over half the nation.

21           MR. STAFFORD: I appreciate that, Chuck.

22           Any questions or comments from anyone on

1 the phone?

2 MS. SHORTALL: I want to add one point of  
3 clarification here, and that is under the  
4 Construction Safety Act in OSHA's own  
5 regulations, we are required to get ACCSH's  
6 recommendations, present a Proposed Rule, and get  
7 their comments and recommendations.

8 The issue of public comment is not an  
9 issue that goes directly to this particular issue  
10 of getting your recommendations. It is a  
11 separate requirement under FACA, the Federal  
12 Advisory Committee Act, that says for all Federal  
13 Advisory Committee meetings, you must allow  
14 people a chance to submit comments, and if there  
15 are no prohibitions against doing so, allow them  
16 also to come and speak before the Committee.

17 So we're doing that for a separate  
18 requirement, and it doesn't -- it happens to be  
19 dovetailing onto the Proposed Rule but is not  
20 required by the statutory requirement to get your  
21 recommendations on a proposed rule.

22 MR. STAFFORD: Thank you, Sarah.

1           Jim Tomaseski or anyone else have a  
2 public comment?

3           Jim, come on up, please.

4           Thank you, Ms. Cordaro.

5           MS. CORDARO: Thank you.

6           MR. TOMASESKI: Thank you. I am going to  
7 open this can of worms again on this digger  
8 derrick exclusion, okay?

9           MS. SHORTALL: Would you please give your  
10 name, and please spell your last name?

11          MR. TOMASESKI: Oh, sorry. Jim  
12 Tomaseski. Last name is spelled  
13 T-o-m-a-s-e-s-k-i.

14          Just to try to clarify something on this,  
15 on the digger derrick, there's a lot of different  
16 scenarios of when you would temporarily remove  
17 the bit from a digger derrick truck. One example  
18 was given. I can give you another real easy  
19 example.

20          You're going to dig a big hole, and  
21 you've got a big bit on. And when you're  
22 finished, you got to set a pole, and the bit gets

1 in the way, so you got to take it off. When  
2 you're through, you put something back on.

3           Most of these digger derricks, which are  
4 commonly referred to as "auger trucks" in the  
5 industry, not "digger derricks," but that's just  
6 the official name for them, they come with  
7 multi-size bits when you purchase them. So they  
8 are intended to be easily removed for whatever  
9 purpose you have to use them for. There could be  
10 a lot of different times when you remove them.  
11 It could be for a very short period of time, or  
12 it could be for a longer period of time, but  
13 there's definitely reasons to actually move the  
14 bit itself that digs the hole. Installing  
15 anchors is another very common example.

16           So the question is, when the propose says  
17 "equip with," what does that mean when you remove  
18 it? It's no longer "equip with." So how is it  
19 going to be enforced is really the question.  
20 When this goes out, how do we tell our people,  
21 well, this is what we need to look forward to on  
22 how this is going to be enforced? We really

1 don't know.

2           So we were discussing the ANSI standard,  
3 the A10.31 standard, which is kind of the bible  
4 of digger derricks, and I think it was correctly  
5 noted that it doesn't have a definition of digger  
6 derrick. I'm on that committee. Why we didn't  
7 write a definition, I guess we thought the  
8 standard didn't need one, because it has two  
9 sections in it that's in the scope, equipment  
10 that's covered, and part two is equipment that's  
11 not covered. And so under the equipment that's  
12 covered, it was correctly stated before that the  
13 intent was to cover equipment that's designed to  
14 accommodate the devices to dig holes, set poles,  
15 and other types of work with those devices.

16           In my opinion, the IBEW's position, that  
17 would be the preferable stance to take, the  
18 approach, is to look at the design and it  
19 "accommodates," not necessarily "equip," because  
20 today it's "equip," tomorrow it isn't, the next  
21 day it is, again, for several different reasons.  
22 That's it on the digger derricks.

1           I wanted to also comment on a couple  
2 other things, on the electrical. When you're  
3 talking about the difference between AC and DC  
4 voltages, first of all, DC, number one, is very  
5 unfamiliar to a lot of people, very unfamiliar,  
6 even to expert electrical people. DC on the  
7 power line side isn't very commonly used. It's  
8 been in some parts of the country for a long  
9 time, but it's not very -- that's about to  
10 change, though.

11           A lot of the new work, a lot of the new  
12 installations that are going in, these  
13 high-voltage installations, are going to be DC  
14 because the engineers and manufacturers and so  
15 forth have found a more economical way to do  
16 this. So a lot of the new lines we're going to  
17 see are DC, and it's going to pose a lot of  
18 different issues for the power companies, for  
19 contractors, for everybody that's going to be  
20 working around these things.

21           So I'm saying all that just to say that  
22 the traditional method of establishing clearance



1 distances has been geared towards AC voltage, not  
2 DC, and so for the unqualified electrical worker,  
3 you know, the 10 feet, add 50 kV, and the  
4 equation that's used for voltages above that, the  
5 .4 inches per 1 kV over the 50 kV, it was really  
6 established on science behind AC voltage and not  
7 DC.

8           Now, saying all that, the numbers that  
9 are there, the clearance distances that are there  
10 are probably okay in terms of that clearance, but  
11 we are really not talking real apples to apples.  
12 We are talking apples to oranges, so it may be  
13 useful to clarify that in the rulemaking to at  
14 least explain, so you won't get the engineers  
15 coming out of the woodwork saying, "No, that's  
16 not it," okay?

17           The other thing, too, on the "minimum  
18 approach distances" versus "minimum clearance  
19 distances," that's a good catch, because minimum  
20 approach distances are unique to the qualified  
21 electrical worker, and it's how safe we can get  
22 to working on or around energized parts. And

1 that can be very confusing when you talk about  
2 the unqualified electrical worker. It's not  
3 minimum approach distance anymore. Really,  
4 "minimum approach distance" shouldn't be anywhere  
5 in this cranes and derrick standard. It doesn't  
6 belong in it, in any way at all.

7 That's my comments.

8 MR. STAFFORD: Thank you, Jim.

9 MS. SHORTALL: Mr. Tomaseski, would you  
10 please identify the organization you are  
11 representing today, if any?

12 MR. TOMASESKI: The International  
13 Brotherhood of Electrical Workers.

14 MS. SHORTALL: Thank you.

15 MR. STAFFORD: Thanks, Jim.

16 Okay. Any questions or comments -- hang  
17 around, Jim, just in case -- of Jim?

18 MR. JONES: I just have one small  
19 question on the digger derrick definition. You  
20 say the ANSI standard doesn't define it. Does  
21 OSHA need to define it? Is it necessary?

22 MR. TOMASESKI: Well, after hearing this

1 conversation today, I would say yeah. I mean, if  
2 we've got a standard here that excludes digger  
3 derricks when doing certain work from the  
4 standard, what is a digger derrick? There is no  
5 direction in the standard that tells you what it  
6 is or what it isn't. So somewhere, there's got  
7 to be some kind of guidance of what a digger  
8 derrick is.

9 MR. STAFFORD: Thanks, Jim.

10 Any other questions or comments?

11 Chuck.

12 MR. STRIBLING: Yeah. I was just going  
13 to say to that point, the ANSI standard uses  
14 pictures and shows you what a digger derrick is.  
15 Sometimes a picture is worth a thousand words and  
16 can convey the meaning or the intent of the  
17 standard. Don't know if that would be helpful  
18 for the agency here, but you already have some  
19 pictures and crane signals, so maybe it's worth  
20 the review.

21 MR. STAFFORD: Thanks, Jim. I appreciate  
22 it.

1           MS. SHORTALL: Mr. Bolon, do you have --  
2 does OSHA have any plans after the amendments and  
3 corrections become final of issuing or revising  
4 guidance documents you have on cranes and  
5 derricks?

6           MR. BOLON: We would be revising any of  
7 the documents we've put out or any that are  
8 coming out, so that they would be consistent with  
9 any of these changes.

10          MS. SHORTALL: So, theoretically, a  
11 picture of a digger derrick could be included in  
12 those pictures?

13          MR. BOLON: Sure.

14          MS. SHORTALL: All right.

15          MR. STAFFORD: Kevin.

16          MR. CANNON: I guess for Paul, these  
17 proposed changes, has this had any impact on  
18 issuing the compliance directive, or has this  
19 already been taken into consideration?

20          MR. BOLON: No. I mean, our directives  
21 is in review now, and I don't think this presents  
22 any problem for that.

1 MR. STAFFORD: Thank you.

2 Any other questions or comments  
3 particularly from those members on the phone?

4 ATTENDEE: No.

5 MS. DAVIS: No.

6 ATTENDEE: No.

7 MR. STAFFORD: All right. I appreciate  
8 it.

9 MR. PRATT: This is Don Pratt. I do have  
10 a question for Sarah.

11 MS. SHORTALL: Yes.

12 MR. PRATT: Sarah, are we allowed to  
13 modify one of these?

14 MS. SHORTALL: Well, you can't modify  
15 OSHA's proposal, but you can make a  
16 recommendation that OSHA modify one of their  
17 items in their proposal, if you would like to do  
18 that.

19 MR. PRATT: I feel like we're getting  
20 close to a vote here, and I think what I've seen  
21 here is very good, okay? And I think even the  
22 forklift standard is better, and it's explained

1 better than it was before.

2           However, I would like to go on the record  
3 as saying that I believe that forklifts should be  
4 excluded from 1926.1400 in the scope.

5           MS. SHORTALL: Well, regardless of  
6 whether the full Committee votes to include or  
7 exclude forklifts, you as a member can still make  
8 that recommendation, and OSHA would need to  
9 consider -- also consider individual  
10 recommendations from members, or at least respond  
11 to it.

12           MR. PRATT: Okay. So depending on how  
13 the vote goes today, I should make that  
14 recommendation personally then?

15           MS. SHORTALL: Well, it sounds like  
16 you've already made that recommendation, yes, if  
17 you'd like to make it in a formal way.

18           MR. PRATT: Thank you, Sarah.

19           [Laughter.]

20           MR. PRATT: That's what I was looking  
21 for.

22           MS. SHORTALL: Okay. Thank you, Don.

1 MR. STAFFORD: Chuck.

2 MR. STRIBLING: Mr. Chairman, to get us  
3 close to a vote on this, would it be appropriate  
4 for something along the lines of the Committee  
5 make a recommendation to the agency to proceed  
6 with the Proposed Rule addressing the corrections  
7 and amendments provided to the Committee today  
8 with additional attention to the definition of a  
9 digger derrick and the "must," "may" language?

10 MR. STAFFORD: Yeah, I think so. I mean,  
11 that's what they're looking for with a  
12 recommendation to proceed with the Proposed Rule  
13 that will open this back up for a comment to  
14 address these issues, but as far as what we're  
15 here doing today, I appreciate the discussion. I  
16 think we've given OSHA some good comments on what  
17 you could do now, and I think for the purposes of  
18 this body, we need to recommend whether we think  
19 OSHA should proceed with the Proposed Rule. And  
20 I think that's where we're at.

21 Don, you're correct that we're getting  
22 close to taking a vote in terms of our

1 recommendation for OSHA.

2           So you just laid out, Chuck, what I  
3 consider a pretty good motion. So, if you should  
4 repeat that in the form of a --

5           MS. SHORTALL: Can I -- can I make sure  
6 I've got it down here right?

7           MR. STAFFORD: I was going to ask him to  
8 repeat it, so that you will have it down right.

9           MR. STRIBLING: I defer to the expert.

10          MS. SHORTALL: It sounds like Mr.  
11 Stribling is making a motion that ACCSH  
12 recommends that OSHA proceed with the proposed  
13 amendments and corrections to the Section 1926,  
14 Cranes and Derrick standard, with additional  
15 attention to digger derrick definition and the  
16 use of "may," "must" language.

17          And I don't know if you were also  
18 including Mr. Cannon's and allow at least 60 days  
19 for public comment, or if that was a separate  
20 one.

21          MR. STAFFORD: Well, there's no reason  
22 not incorporating that language if we agree to



1 that, Sarah.

2 MS. SHORTALL: Okay. I'll leave that  
3 out. So it's just ending and use of the "may,"  
4 "must" language.

5 MR. STRIBLING: I believe that pretty  
6 much captures it.

7 MS. SHORTALL: All right.

8 MR. STRIBLING: I would expect that no  
9 matter how long the comment period it, it will  
10 probably be extended.

11 MS. DAVIS: I second it. This is Tish  
12 Davis.

13 MR. STAFFORD: All right. So we have a  
14 motion made and seconded. All those in favor,  
15 signify by saying aye.

16 [Chorus of ayes.]

17 MS. SHORTALL: Okay.

18 MR. STAFFORD: Wait a minute. I got to  
19 do the roll call. Okay. Hold on a second.

20 MS. SHORTALL: Sorry.

21 MR. STAFFORD: All right. So we need to  
22 do a roll call.

1           Jeremy, we have a motion and a second.

2   How do you vote?   Jeremy?

3           MR. BETHANCOURT:   Aye.

4           MR. STAFFORD:   Steve Hawkins?   Steve

5   Hawkins?

6           [No audible response.]

7           MR. STAFFORD:   Are you there, Steve?

8           [No audible response.]

9           MR. STAFFORD:   Tish Davis?

10          MS. DAVIS:   Aye.

11          MR. STAFFORD:   Tom Marrero?

12          MR. MARRERO:   Aye.

13          MR. STAFFORD:   Don Pratt?

14          MR. PRATT:   Aye.

15          MR. STAFFORD:   Roger Erickson?

16          MR. ERICKSON:   Aye.

17          MR. STAFFORD:   Laurie Shadrick?

18          MS. SHADRICK:   Aye.

19          MR. STAFFORD:   Kevin Cannon.

20          MR. CANNON:   Aye.

21          MR. STAFFORD:   Walter Jones.

22          MR. JONES:   Aye.

1 MR. STAFFORD: Matt Gillen.

2 MR. GILLEN: Aye.

3 MR. STAFFORD: Aye.

4 The ayes seem to have it, yeah.

5 [Laughter.]

6 MS. SHORTALL: Okay.

7 MR. STAFFORD: Okay, Sarah. So I don't  
8 know what --

9 MS. SHORTALL: I had one, two, three,  
10 four, five, six, seven, eight, nine, ten for; no  
11 opposed.

12 MR. STAFFORD: All right. Thank you. We  
13 appreciate it. We'll be back in touch. Okay.

14 Any announcements about exhibits at this  
15 point, Sarah?

16 MS. SHORTALL: Yes. I thank you for  
17 reminding me.

18 I'd like to enter into the record as  
19 Exhibit No. 4, discussion of amendments and  
20 corrections to the cranes and derricks and  
21 construction standard; as Amendment No. 5, the  
22 proposed amendments to cranes and derrick

1 standard; and as Exhibit No. 6, an e-mail from  
2 Steve Yohay on 3/15/13 requesting an opportunity  
3 to have Tressi Cordaro speak at the 3/18/13 ACCSH  
4 meeting.

5 MR. STAFFORD: Okay. Thank you, Sarah.

6 Okay. I want to thank everyone who  
7 joined us today and all the members for  
8 participating on such short notice. We  
9 appreciate it. We will work out with DOC the  
10 next meeting, but right now, it looks like that  
11 we're still looking at May for the next full  
12 ACCSH meeting.

13 And if there's no other questions or  
14 comments, the meeting is adjourned. Thank you.

15 [Whereupon, at 2:59 p.m., the ACCSH  
16 meeting was adjourned.]

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