

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

ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH
(ACCSH)

Wednesday, December 2, 2015

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

Reported by: Christine Allen,
Capital Reporting Company

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OSHA Advisory Committee Meeting: Construction Safety and Health 12-02-2015

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1 A P P E A R A N C E S

2 COMMITTEE MEMBERS:

3 EMPLOYEE REPRESENTATIVES:

4 Erich (Pete) Stafford, Chairman, Director of
5 Safety and Health
6 North America's Building Trades Unions

7 Alejandro G. Beltran, Director of Training
8 International Union of Painters and Allied Trades

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

13 Palmer Hickman, Director of Safety Code Training &
14 Curriculum Development
15 Electrical Training ALLIANCE

16 Steven L. Rank, Executive Director of Safety and
17 Health
18 International Association of Bridge, Structural,
19 Ornamental and Reinforcing Iron Workers

20 EMPLOYER REPRESENTATIVES:

21 Kevin R. Cannon, Director of Safety and Health
22 Services
The Associated General Contractors of America

23 Cindy DePrater, Vice President, Director
24 Environmental, Health and Safety
Turner Construction Company

25 Thomas Marrero, Jr., National Safety Director,
26 Tradesman International

27 Donald L. Pratt, President and CEO
28 Construction Education and Consultation
29 Services of Michigan

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1 COMMITTEE MEMBERS (continued)

2 EMPLOYER REPRESENTATIVES (continued):

3 Jerry E. Rivera, Safety Director
4 Washington, DC Chapter National Electrical
5 Contractors Association

6 STATE REPRESENTATIVES:

7 Steven D. Hawkins, Administrator
8 Tennessee Occupational Safety and Health
9 Administration

10 PUBLIC REPRESENTATIVES:

11 Jeremy Bethancourt, Co-Owner and Program Director
12 Arizona Construction Training Alliance

13 FEDERAL REPRESENTATIVES:

14 Christine M. Branche, Principal Associate Director
15 and Director
16 Office of Construction Safety and Health
17 CDC-NIOSH

18 DESIGNATED FEDERAL OFFICIALS:

19 Dean McKenzie
20 Office of Construction Services, Directorate
21 of Construction

22 COMMITTEE CONTACTS:

Damon Bonneau, ACCSH Coordinator, Office of
Construction Services, Directorate of Construction

COMMITTEE COUNSEL:

Lisa A. Wilson, ACCSH Counsel
Office of the Solicitor, DOL

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1 ALSO PRESENT:

2 Adele Abrams, American Society of Safety of
Engineers

3

Aline Der Alexanian, American Wind Energy
4 Association

5 Troy Armstead, Department of Defense, Air Force

6 Garvin Branch, OSHA, Directorate of Construction

7 Tony Brown, Consultant

8 Jessica Bunting, the Center for Construction
Research and Training

9

Veneta Chatmon, Directorate of Construction

10

Matt Compher, PLH Group

11

Wayne Creasap, the Association of Union
12 Constructors

13

Nigel Ellis, National Safety Council, OSHA
Alliance

14

Mark Hatch, OSHA, Directorate of Construction

15

Bill Hering, Regional Manager for Matrix North
16 America Construction, Northeast

17

Ken Koroll, Directorate of Training Education,
Office of Construction Safety Training

18

Mike McCully, Sheet Metal and Air Conditioning
19 Contractors National Association

20

Michele Mihelic, American Wind Energy Association

21

Robinson Vasquez, the American Road and
Transportation Builders Association

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OSHA Advisory Committee Meeting: Construction Safety and Health 12-02-2015

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1 ALSO PRESENT (Continued):

2 Courtney Murray, OSHA, Directorate of Construction

3 Michael Payne, OSHA, Directorate of Construction

4 Jarrett Quill, MasTec

5 Bruce Rolfsen, Bloomberg BNA

6 Scott Schneider with the Laborers' Health &
Safety Fund of North America

7

Matthew Shaw, National Commission for the
8 Certification of Crane Operators

9 Kathy Stieler representing the National
Association of Tower Erectors

10

Jens Svenson, OSHA, Directorate of Construction

11

Jane Terry, National Safety Council

12

Chris Treml, Operating Engineers

13

Rod Weber, PENTA Building Group

14

Wes Wheeler, National Electrical Contractors
15 Association

16

Lauren Williams, Associated Builders and
Contractors

17

Tom Whitaker from Harness Safety Software

18

19

20

21

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

2 (8:34 a.m.)

3 MR. STAFFORD: Find your seats please. I
4 think we have a quorum of committee members, so
5 we're going to go ahead and call the meeting to
6 order.

7 My name's Pete Stafford. I'm chair of
8 the committee, a labor representative. I'd like
9 to welcome you all to this morning's meeting. We
10 have just a half-day meeting, which is a little
11 bit unusual for our schedule, so we have one break
12 this morning and we are due to break overall at
13 noon today, and I appreciate you being here.

14 For those folks in the back, please sign
15 in the sign-in sheet. This is a public meeting,
16 so we want to know everyone who participated and
17 came here today, so there's a sign-in sheet in the
18 back.

19 As always, if you wish to make public
20 comment, there's a separate sign-in sheet for
21 that, as well. We will take public comment to the
22 extent that we have time to do that and we'll put

1 that at the end of the meeting, so I'm going to
2 guess we're going to hold -- I'll try, depending
3 on the schedule, starting maybe at about 11:30 or
4 so we'll start the public comment period. We have
5 two folks that have already signed up for that and
6 we'll get to as many others of you as we can.

7 So with that, we'll start with
8 introductions. We'll first go around the table
9 and then I'd like for each of you in the room to
10 introduce yourselves and then we'll get on with
11 our agenda for the meeting. I understand Dr.
12 Michaels, I think, maybe had a conflict with
13 NACOSH, so we're happy to have Mr. Sander join us
14 today to tell us what's going on at OSHA, and
15 we'll start with Kirk on that agenda item.

16 Jim Maddux, unfortunately, will not be
17 able to join us today. Jim has been ill all week,
18 and for those of us in the workgroups, you noticed
19 Jim wasn't around yesterday. So I believe Dean
20 McKenzie will fill in and give us an update on
21 what's happening at the Directorate of
22 Construction.

1 Before we do intros, Lisa, anything we
2 need to add, or Dean? Okay, well, let's go around
3 then, starting with you, Cindy, and introduce the
4 committee.

5 MS. DePRATER: Cindy DePrater with
6 Turner Construction Company, Employer
7 Representative.

8 MR. CANNON: Kevin Cannon, Associated
9 General Contractors of America, Employer
10 Representative.

11 MR. PRATT: Don Pratt, Pratt Building
12 Company, Employer Representative.

13 MR. BETHANCOURT: Jeremy Bethancourt,
14 ACTA Safety, Public Representative.

15 MR. RIVERA: Jerry Rivera, Employer Rep.

16 MR. HAWKINS: Steve Hawkins, Tennessee
17 OSHA, State Plan Safety Representative.

18 MR. HICKMAN: Palmer Hickman, Employee
19 Rep.

20 DR. BRANCHE: Christine Branche, NIOSH,
21 Federal Rep.

22 MR. MARRERO: Tom Marrero, Employer Rep.

1 MR. RANK: Steve Rank, Ironworkers

2 International, Employee Representative.

3 MR. ERICKSON: Roger Erickson, MOST

4 Programs, International Brotherhood of

5 Boilermakers, Employee Rep.

6 MR. BELTRAN: Alex Beltran,

7 International Union of Painters and Allied Trades,

8 Employee Rep.

9 MR. MCKENZIE: Dean McKenzie, Designated
10 Federal Official.

11 MS. WILSON: Lisa Wilson, ACCSH Counsel.

12 MR. STAFFORD: Okay, thank you. Let's
13 go ahead and start in the back. You have a
14 microphone? Okay, Damon's over on the right. So
15 Rod, we'll start with you.

16 MR. BONNEAU: Damon Bonneau, ACCSH
17 Coordinator.

18 MR. WEBER: Rod Weber, PENTA Building
19 Group.

20 MR. McCULLY: Mike McCully, Sheet Metal
21 and Air Conditioning Contractors National
22 Association.

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1 MR. WHEELER: Wes Wheeler, National
2 Electrical Contractors Association.

3 MR. SCHNEIDER: Scott Schneider with the
4 Laborers' Health and Safety Fund of North America.

5 MS. ABRAMS: Adele Abrams, American
6 Society of Safety of Engineers.

7 MR. ELLIS: Nigel Ellis, National Safety
8 Council, OSHA Alliance.

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

11 MS. CHATMON: Veneta Chatmon,
12 Directorate of Construction.

13 MR. ROLFSEN: Bruce Rolfsen, Bloomberg
14 BNA.

15 MR. KOROLL: Ken Koroll, Directorate of
16 Training Education, Office of Construction Safety
17 Training.

18 MR. HERRING: Bill Hering, Regional
19 Manager for Matrix North America Construction,
20 Northeast.

21 MR. CREASAP: Wayne Creasap, the
22 Association of Union Constructors.

1 MS. BUNTING: Jessica Bunting, the
2 Center for Construction Research and Training.

3 MR. SHAW: Matthew Shaw, National
4 Commission for the Certification of Crane
5 Operators.

6 MR. ARMSTEAD: Troy Armstead, Department
7 of Defense, Air Force.

8 MR. COMPHER: Matt Compher of PLH Group.

9 MR. QUILL: Jarrett Quill, MasTec.

10 MS. STIELER: Kathy Stieler representing
11 the National Association of Tower Erectors.

12 MR. WHITAKER: Tom Whitaker from Harness
13 Safety Software.

14 MS. TERRY: Jane Terry, National Safety
15 Council.

16 MS. DER ALEXANIAN: Aline Der Alexanian,
17 American Wind Energy Association.

18 MS. MIHELIC: Michele Mihelic, American
19 Wind Energy Association.

20 MR. VASQUEZ: Robinson Vasquez, the
21 American Road and and Transportation Builders
22 Association.

1 MS. WILLIAMS: Lauren Williams,
2 Associated Builders and Contractors.

3 MR. TREML: Chris Treml, Operating
4 Engineers.

5 MR. SVENSON: Jens Svenson, OSHA,
6 Directorate of Construction.

7 MR. HATCH: Mark Hatch, OSHA,
8 Directorate of Construction.

9 MR. MURRAY: Courtney Murray, OSHA,
10 Directorate of Construction.

11 MR. PAYNE: Michael Payne, OSHA,
12 Directorate of Construction.

13 MR. BROWN: Tony Brown, Consultant.

14 MR. STAFFORD: Does that cover it,
15 Damon?

16 MR. BONNEAU: Yes.

17 MR. STAFFORD: All right, thank you.

18 Thank all of you. Again, if you would like to
19 make comments, please sign up and please sign in
20 the attendance sheet that you area here.

21 Well, Mr. Sander, I'm on the agenda to
22 introduce you. Other than saying you're the Chief

1 of Staff now or have replaced Debbie Berkowitz,
2 this is the first time I've met you so I don't
3 know much about your background, but it's great
4 that you've taken the time and come to talk with
5 us, so maybe you would like to start with giving
6 us a little bit of your background, if you don't
7 mind, and then we look forward to your comments.

8 MR. SANDER: Well, thank you and part of
9 that is also -- I usually like to be the guy
10 behind the scenes, but Jim has decided that, you
11 know, maybe it's time to bring me out from behind
12 the curtain. And with Dr. Michaels being
13 scheduled today, it makes it a little easier.

14 Well, thank you for having me here.
15 Prior to being at OSHA, I was at the White House
16 in Presidential Personnel. And then my background
17 is in environmental science and policy. So the
18 Directorate of Standards and Guidance, when I
19 first met with them, their first question was what
20 was your highest level of chemistry? And I guess
21 I passed the test because they're still talking to
22 me.

1 So it's been great to be here at OSHA.
2 I've been here for about a year and a half now.
3 Dean has really put me through the ringer, trying
4 to give me the look-around. I see the world in a
5 very different place since I've been here, so I am
6 excited to be part of the OSHA family. And is
7 there anything else you'd like to know about me?

8 MR. STAFFORD: No, that sounds good.

9 MR. SANDER: And I know Cindy's taken us
10 on a couple tours already, so thank you for that.

11 Well, first, I'd also like to thank all
12 of you for being here today. And being that this
13 is my first time addressing you, Dean has told me
14 that I should welcome Alex Beltran and Steve Rank
15 to your first meeting, but since it's also my
16 first meeting you could have put anybody on this
17 list. So welcome and thank you for serving for
18 your first meeting.

19 So things going on at OSHA. We are in a
20 busy time right now, lots of things are coming up,
21 and so I'll look to go through it.

22 One of the big new announcements we had

1 is the inspection weighting system. As many of
2 you know, we do approximately 40,000 inspections a
3 year and each inspection gets counted as 1.
4 Moving to this new inspection weighting system a
5 more complex inspection will have a higher value,
6 so that it's more - - the resources we allocate
7 towards it will be more reflective in the
8 inspection weighting. So, for instance, PSM
9 inspections, such as at a chemical facility, will
10 have a higher inspection weight than, say, a rapid
11 response investigation that we're doing with the
12 new severe injury reporting or chemical exposure.
13 So if we take the last two years we've been
14 looking at how long inspections take, so as part
15 of that, making sure that the inspection weight is
16 comparable to the amount of time we're taking.

17 One of the new things that we just
18 released this past month was our Safety Health
19 Program Management Guidelines. This is an update
20 from our 1989 guidelines that was to help small-
21 and medium-sized employers. The biggest addition
22 to this is a multi-employer section. It's the new

1 section at the end of the document. And as part
2 of that, we invite all of you to come back next
3 week. We're having a public meeting on December
4 9th from 1:00 to 3:00 in the Great Hall to have a
5 discussion about this. It's going to be a
6 modified Town Hall with Dr. Michaels and we can
7 get the information out to you on that.

8 Another document we released is we have
9 an updated Whistleblower Protection Guidelines for
10 employers. This was put out by one of our other
11 FACAs, the Whistleblower Protection Committee.
12 And it's currently under -- we have it out for
13 comment till January 19th, so we ask that you take
14 a look at it. It's to help employers so that they
15 know how to deal with employees who raise
16 concerns.

17 As probably many of you know, our Severe
18 Injury Reporting Rule went into effect on January
19 1st. Currently, we're on track I think to hit
20 about 12,000 reports. We're getting about 200 to
21 250 a week, depending on how many you get --
22 depending on the week. And right now we're

1 inspecting around 35 to 40 percent, depending on
2 which region you're looking at. And then our
3 rapid response investigations are getting about 50
4 percent. You see that it doesn't add up to 100
5 percent there because we determined some people
6 like to tell us more than they need to, and so
7 they actually aren't under our jurisdiction, so we
8 count it as we got their call, but we didn't
9 respond to it.

10 And as part of the ROI we ask each
11 employer to do a root cause analysis of that.
12 Well, "whoda thunk" is we need a little more than
13 that. So as part of that we're putting out a
14 class at OTI on incident investigations and we're
15 putting out a guide, as you can see, on incident
16 investigations and non-accident investigations.
17 And so this guide, we'll be putting a class out.
18 It should be up for public view and it should help
19 especially small- and medium-sized businesses on
20 getting through incidents on how you conduct it
21 because this might be one of the first time a
22 company reports to us and they need to have that

1 background.

2 Probably more of the things that -- more
3 interest, the Confined Space Rule. We've delayed
4 enforcement till January 8th. We are currently
5 under litigation on that and in negotiations.

6 Silica, our team's working very hard on
7 it and moving forward on that. Hopefully, we can
8 get something out by the end of the
9 administration.

10 Recordkeeping modernization, we're
11 moving forward on it. It's currently at OMB and
12 so we're awaiting their final pass back to us.

13 And the Fall Protection Campaign, again,
14 it's going to be -- we're going to do it again
15 this year. Thank you all for participating on
16 that. It's going to be the week of May 2nd, and
17 so we're looking forward to having another
18 successful Fall Protection Campaign.

19 Do I dare say any questions?

20 MR. STAFFORD: Hold on. Okay, Cindy
21 first, then Steve. Okay, Cindy.

22 MS. DePRATER: First, Kirk, thank you. I

1 appreciate the brevity of the presentation and I
2 think it was very succinct. Two questions. Cindy
3 DePrater, Employer Rep.

4 On the workplace violence, why that
5 focus? What's driving that?

6 MR. SANDER: Well, it's not so much a
7 focus on workplace violence, but it's on --
8 workplace violence inspections take longer than
9 other types of inspections, so putting that value
10 there. So that's why, we're just showing
11 different inspections that take different lengths
12 of time.

13 MS. DePRATER: Okay, so it's not
14 necessarily a focus that's driving the inspection.

15 MR. SANDER: Right.

16 MS. DePRATER: Okay. And under the
17 Severe Injury Reporting Rule, is there possibly a
18 breakdown by industry or region that we can look
19 at the data on that?

20 MR. SANDER: I don't know if there is,
21 but I can find out and I can get back to you on
22 that.

1 MS. DePRATER: Okay, thank you.

2 MR. STAFFORD: Steve? Identify
3 yourself, Steve, for the reporter.

4 MR. RANK: Steve Rank with the
5 Ironworkers. Hi, Kirk. Welcome.

6 MR. SANDER: Hello.

7 MR. RANK: I just had a question about
8 your slide, your second slide, on new inspection
9 weighting system.

10 MR. SANDER: Yes.

11 MR. RANK: Back before you worked at the
12 White House and probably when you were in
13 elementary school they had the Focus Inspection
14 Initiative for construction. I don't know if
15 you've ever heard that term.

16 MR. SANDER: I had not.

17 MR. RANK: Back in the '90s, they had a
18 Focus Inspection Initiative, the Agency, that was
19 very, very popular. And that policy would focus
20 on the four major causes of fatalities in the
21 construction industry, which was falls,
22 electrical, caught between, and struck by.

1 MR. SANDER: Okay.

2 MR. RANK: Very, very popular. So my
3 question is, is the new inspection weighting
4 system kind of a spinoff of the Focus Inspection
5 Initiative back in the '90s?

6 MR. MCKENZIE: Dean McKenzie, OSHA. The
7 Focus inspections still exist as they always have.
8 That has not changed. The weighting is trying to
9 capture the resources taken. If you do a PSM
10 inspection, you might be on that inspection for
11 six months.

12 MR. RANK: Right.

13 MR. MCKENZIE: To have that equal to a
14 three-hour inspection was troubling. So many
15 different types of inspections take a long time
16 and what we're trying to do is incentivize the
17 compliance officer to do the harder inspection
18 instead of doing 15 simple little inspections, you
19 know, that have 2.2 citations per inspection in a
20 week. Let's go get something that has impact,
21 that has meaning, and they are harder. You know,
22 a health inspection with sampling, you might spend

1 two or three weeks there and then a couple, three
2 weeks getting the analysis and everything else.
3 It's a lot of time. So that's what the intent is,
4 to try to -- all inspections are very important to
5 us, but there are some that Dr. Michaels wanted to
6 incentivize a little bit to try to do the harder
7 things, but the Focus inspections is not related
8 in a lot of ways.

9 MR. RANK: Does this system also
10 contemplate making sure that you have the right
11 type of compliance person doing the right
12 inspection, such as an Industrial Hygienist
13 going to a chemical plant to do an inspection
14 versus someone from construction? Because that has
15 been a big issue in the past when people have been
16 dispatched to a serious or imminent danger thing,
17 where maybe they didn't have an IH that should
18 have been dispatched or vice versa a construction
19 expert to go to a project, a construction project.
20 So does this new system take into consideration
21 making sure you have the right trained compliance
22 officer to do it?

1 MR. MCKENZIE: It's not identified in
2 the program as such, but it will in effect because
3 you have more points. And if you need to take two
4 guys or send another referral out, you're getting
5 the enhanced score for the more complex
6 inspections.

7 MR. RANK: Thank you.

8 MR. STAFFORD: Any other questions or
9 comments? Jerry and then Steve.

10 MR. RIVERA: Kirk, this is Jerry Rivera,
11 Employer Rep. Welcome and thanks for the
12 presentation.

13 I just wanted to ask what has been at
14 least on the new the raise of OSHA fines. You
15 know, is there any strategy that you could share
16 at this point with the Committee about what the
17 approach is going to be on that angle?

18 MR. SANDER: Well, right now on that
19 we're waiting for the full budget to come out on
20 that and we're interested and we're going to be
21 working with OMB to see what does that language
22 exactly mean. And so, I hate to say this, but

1 we're in a waiting pattern to understand that
2 language.

3 MR. STAFFORD: Steve?

4 MR. HAWKINS: Steve Hawkins, Tennessee
5 OSHA. I talked to Dr. Michaels at the ACCSH
6 meeting and also talked to, I guess, Tom Glassy
7 (phonetic) about Dean used the word "incentivize"
8 COSHOs to make the more difficult inspections, but
9 are they rewarded for the number of inspections
10 they make? How does that incentivize them?

11 MR. MCKENZIE: The OSH Act prohibits
12 putting any kind of performance analysis on how
13 many inspections you do. But an area office is
14 held accountable for how many inspections they do
15 and this will adjust within the office, not the
16 individual COSHO. The area director will have the
17 opportunity to know he can make his numbers doing
18 fewer, more impactful inspections.

19 MR. HAWKINS: Okay. I don't want to put
20 words in your mouth, but the words that Dr.
21 Michaels used is "recognition" as opposed to
22 "incentivize."

1 MR. MCKENZIE: Right.

2 MR. HAWKINS: Because I think a lot of
3 people are uncomfortable with -- Ms. Cindy
4 DePrater asked the question is there a focus on
5 workplace violence? Well, if you're saying
6 they're incentivized to make these inspections,
7 then there is a focus on workplace violence. And
8 personally, I think we're more comfortable with
9 recognition for work done. You're not going to go
10 out and necessarily look for workplace violence
11 inspections, you're just going to be given credit
12 when you encounter one and there's a complaint and
13 you make that inspection.

14 Otherwise, if you look at the strategy,
15 it looks like you are focusing Agency resources on
16 those areas like heat stress and workplace
17 violence at the exclusion possibly of others. So
18 I don't know if that's something Mr. Sander can
19 speak to.

20 MR. SANDER: I think part of it was to
21 look at Dean was saying, where one inspection --
22 and I went out on an inspection and it took us a

1 half a day, but then I talked to our guys in the
2 South Houston office where they're on PSM
3 inspection and they're up against a six- month
4 deadline.

5 MR. HAWKINS: Six months, right.

6 MR. SANDER: And that takes the whole
7 inspection. And those guys are going, well, I
8 just spent six months on something and this person
9 spent one day and we actually did two inspections
10 because we saw someone up on a roof without fall
11 protection.

12 MR. HAWKINS: Right. Right, and so
13 truly recognition for the work that's been
14 accomplished, not to incentivize one over the
15 other.

16 MR. SANDER: Right.

17 MR. HAWKINS: Is that accurate?

18 MR. MCKENZIE: That's accurate.

19 MR. SANDER: Yes, that's where the start
20 of this started of saying, hey, we want to
21 recognize our COSHOs for the work they're doing.

22 MR. HAWKINS: Okay. Thank you.

1 MR. STAFFORD: Cindy, you have another
2 questions?

3 MS. DePRATER: Cindy DePrater, Employer
4 Rep. And I want to tagline off of Steve. You
5 know, my concern was, on workplace violence, are
6 we seeing more and more of those that would take
7 OSHA resources to be able to inspect? And so that
8 was really the concern with why is that a focus,
9 so thank you for the explanation on that.

10 MR. STAFFORD: Any other questions or
11 comments?

12 MR. RANK: I do, Mr. Chairman. Steve
13 Rank, Ironworkers.

14 On the Whistleblower Protection slide, I
15 recently had a conference call with one of the
16 regional administrators in the country and there
17 was a whistleblower, he actually had a title. And
18 I just need to know in each region is there an
19 Assistant Regional Manager that's designated for
20 the whistleblower protection policy and program?

21 MR. SANDER: Yes, I believe we are
22 moving to that, having an ARA.

1 MR. RANK: Okay. I was unaware that
2 each region had just created a special position
3 for someone to handle nothing except whistleblower
4 complaints. And I didn't know if that was going to
5 be a growing policy where you fill those slots,
6 and it sounds like you are.

7 And secondly, on this particular case,
8 we were informed that even though labor and
9 management wanted to move to close this complaint,
10 the Agency informed all of us that they could not
11 close the complaint because they had a time
12 duration or it had to stay open and certain things
13 had to be done before they could even close the
14 complaint. And so I didn't know -- I just need a
15 little bit of clarification on why a complaint had
16 to stay open for X-amount of months despite
17 labor's input and management's input that there
18 was no merit to the complaint?

19 MR. SANDER: That's the first I've heard
20 of it and I'll definitely get back to you on that.

21 MR. RANK: Well, I'll get your card and
22 I'll give you some details. Thank you. Thank you,

1 Mr. Chairman.

2 MR. STAFFORD: You're welcome, Steve.

3 Any other questions or comments?

4 I have a comment. Mr. Sander, first,
5 thanks again for coming. You know, we had our
6 workgroup meetings yesterday and that's where a
7 lot of the work of this Committee gets done. And
8 over the last four or five years we've whittled
9 our workgroups down from a total of seven to three
10 we've settled on, for lots of reasons. We're
11 trying to align our work with the needs of the
12 Agency.

13 Well, one of those workgroups is
14 Training and Outreach. They're training OSHA's
15 policy with respect on how you deal with
16 construction safety and how training is important
17 to everyone on this Committee and our individual
18 organizations. And we have made several
19 recommendations and gone to a lot of work over the
20 last couple years on dealing with training and
21 education issues.

22 We have been disappointed, I think it's

1 fair to say, and I would say this individually to
2 Dr. Michaels or Jordan, as well, but since I think
3 that we had this discussion yesterday it's
4 appropriate for me to say this on behalf of ACCSH
5 that there's a frustration when our workgroup
6 talks about training and education issues, that we
7 do not have a participant from the OSHA
8 Directorate of Training and Education participate.
9 And what we find is that through our deliberations
10 and recommendations we have a disconnect between
11 what we're doing and what's happening at the DTE.

12 We had a good discussion and for the
13 first time, and Ken was here yesterday in the back
14 that came and talked to our group because we're
15 developing a leadership training program that we
16 envision that will be embedded as an elective in
17 the OSHA 30 Program because, whether OSHA likes it
18 or not, the industry is leaning on the OSHA 30 for
19 supervisory training. Eighty-six percent of the
20 employers in this country are using the OSHA 30
21 for their supervisory training and there's -- we
22 agree as in that's why I'm speaking on behalf of

1 ACCSH here that there's a gap in that training and
2 we're trying to fill it.

3 We have gone way out of our way. We've
4 had an inclusive curriculum development team that
5 includes a lot of stakeholders in this room,
6 representatives of the Directorate of
7 Construction, and representatives of the OSHA
8 training side. And we are still struggling with
9 getting a commitment that despite the fact that
10 everyone around this table, and I would venture to
11 guess everyone sitting in this room, thinks that
12 it's important for our industry that we get a
13 commitment from OSHA, the training folks, that
14 once this is done -- and we've involved them in
15 the process so that we're working hand-in-hand on
16 this -- that we are going to proceed down the road
17 and have this done after a lot of investment of
18 our time on this Committee and the investment of
19 the research that's going into the development of
20 this module.

21 So this is a long way of saying, I
22 think, that we would appreciate and we appreciate

1 Mr. Koroll, who's in the audience today, coming
2 for the first time in several years, that our
3 Training Workgroup has actually talked to folks in
4 the Training Office because they've pleased us
5 with their participation at our meeting, that we
6 would have from now on -- and I know Ken is going
7 to go back on the staff level. We talked again
8 this morning to raise that, but it would be
9 helpful, I think, if the leadership of this agency
10 would engage the training folks with our Training
11 Workgroup so that we're in alignment on what we're
12 doing.

13 MR. SANDER: I will definitely take that
14 back and I'll push for that.

15 MR. STAFFORD: Okay, I greatly
16 appreciate that. Any other questions or comments?

17 (No response.)

18 MR. STAFFORD: Mr. Sander, thank you
19 very much for your time.

20 MR. SANDER: Thank you.

21 MR. STAFFORD: Okay. So next on the
22 agenda is the report from the Directorate of

1 Construction. As I said, Jim Maddux is ill and
2 won't be joining us, so Dean McKenzie will be
3 doing that presentation.

4 MR. MCKENZIE: Good morning. Thank you
5 for joining us today. I'd also like to welcome
6 Steve and Alex. ACCSH is often a meaningful
7 commitment for these folks to come in and do. I
8 know it's always fun, it's always convenient, and
9 D.C. is beautiful in the winter when we have
10 meetings, but we do appreciate the work of the
11 Committee.

12 Jim is indeed ill and I think we're
13 probably happy he's not here. He's complaining of
14 flu-like symptoms, so we will let him stay home
15 today. He's very disappointed he couldn't be
16 here. This would have been his last meeting. Jim
17 is retiring at the end of the month and will be
18 moving on, so I know that he's been looking
19 forward to the meeting and having the chance to in
20 person speak to everyone.

21 We have made an official date now for
22 the 2016 Fall Prevention Stand-Down will be made

1 the week of May 2nd. We look forward to
2 everyone's participation and involvement in that.
3 This thing has caught fire as an outcome of the
4 Fall Prevention Campaign for the safety community
5 and OSHA and its partners to engage. We're
6 pushing close to 5 million, 4 million people have
7 been touched by this Stand-Down in 2 years.
8 That's pretty incredible. I'm ready to call
9 Guinness and get that record officially stamped.
10 It's a great thing and I like to tell people it's
11 one of the few times we don't tell you how to do
12 something. We just say go do something, have a
13 Stand-Down, however it works for you. It's been a
14 huge success.

15 As Kirk mentioned, confined spaces is in
16 -- he was a little off. It is in full enforcement
17 for everything but residential construction,
18 residential building, right now. We are still in
19 pending litigation and we're working through that
20 process right now; hope to have that done in the
21 coming months. The residential extension will
22 expire January 8th.

1 Silica is still working. They did three
2 weeks of hearings and got thousands of comments.
3 It's a lot of work to get through that. It's
4 going to be a big impact on the Agency when we get
5 that done and free up a lot of folks. I don't
6 know much of anybody that hasn't touched a piece
7 of it or another.

8 On our regulatory front, out of DOC
9 we've got a lot of thing hanging. Crane operator
10 qualification is very close. We hope to get it
11 into the clearance process. We are in queue, if
12 you will, to get it into the clearance process.
13 We're very close.

14 The Standards Improvement Project that
15 you are going to hear, one new item to attach,
16 SIPS 4. The Standards Improvement Project is
17 ready to go into clearance if we can get it into
18 the system, but if it isn't going to make it,
19 we've got one additional items we're going to try
20 and get ready and plug in.

21 The crane amendments, you've heard
22 several of the amendments that were coming in,

1 adjusting the scope on forklifts and stabilizers
2 and some of those things. That is in SOL for
3 review. We hope to have a Small Business panel in
4 the spring on backovers and try to get backover
5 prevention rolling, get something moving on that,
6 maybe in June.

7 Comm towers, communication towers, are
8 still a big issue for us and we're very engaged
9 with that. There is talk right now and we're
10 fairly close, I think, to having another joint FCC
11 meeting in 2016, and try to keep moving that
12 forward. There's been quite a bit. One of the
13 people that have signed up for the meeting is
14 going to talk about the new ANSI standard on comm
15 towers that is coming out. That'll be a positive
16 thing coming up.

17 We are still working on the comments
18 from the RFI. That little RFI, we managed to get
19 1,300 individual comments on that RFI in an
20 industry without organized labor, without many of
21 the trappings you would associate with so many
22 other industries. That's a pretty remarkable

1 outcome to get that many comments, so we're still
2 trying to pick our way through that.

3 And we hope to have a best practices
4 guide published sometime in early 2016 on comm
5 towers that will address everything from the
6 wireless carrier down to the crews and boots on
7 the ground that are going to climb the tower.

8 And as part of the settlement from the
9 crane standard when it came out, the American
10 Railroad Association filed suit and we have
11 settled the case, but it will call for a
12 rulemaking. The crane standard right now goes
13 through 1926.1441. There will eventually be a
14 1442, and so we've got that drafted, trying to get
15 it into the clearance process, as well.

16 So with that, that's kind of our update.
17 I'm happy to take any questions.

18 MR. STAFFORD: Jeremy?

19 MR. BETHANCOURT: I have a question.

20 We've talked about the Stand-Down being May 2nd.

21 Are we going to planning to have another two-week-
22 long Stand-Down?

1 MR. MCKENZIE: No, one week.

2 MR. BETHANCOURT: So just one week, May
3 2nd.

4 MR. MCKENZIE: We have kept the
5 certificate page open for months after each Stand-
6 Down, so we will try to concentrate OSHA's effort,
7 per se, in presenting and publicizing and doing
8 all that to one week. If an employer does it three
9 weeks after, a month after, they could still go
10 get certificates.

11 MR. BETHANCOURT: Is there any thought
12 to rekindling the arrangement I think it was with
13 the National Safety Council to have certificates
14 available on their website? I believe that was
15 something at --

16 MR. MCKENZIE: That is likely.

17 MR. BETHANCOURT: -- last year, so that
18 folks who are nervous about --

19 MR. MCKENZIE: We've been partnering
20 with them all along and already had meetings with
21 them. I believe that will continue. And it is
22 going to coincide with the Construction Safety,

1 Executive Safety Week. And we're trying to engage
2 as many people as we can.

3 MR. STAFFORD: Christine?

4 DR. BRANCHE: Another partner's going to
5 be ASSE for their national North American Safety
6 Week, as well.

7 MR. MCKENZIE: Yes.

8 MR. STAFFORD: Is that the week of May
9 2nd? Oh, good.

10 MR. BETHANCOURT: Yes, it's always that
11 week.

12 MR. STAFFORD: All right, excellent. Any
13 other -- yes, Steve Rank?

14 MR. RANK: Steve Rank with the
15 Ironworkers. Can you kind of summarize what the
16 Agency's takeaway was from the last July meeting
17 when we had the huge stakeholders from the crane
18 industry testified here? And if you could just
19 kind of summarize the unanimous position that the
20 stakeholders took and the Agency's response to
21 that and moving forward what we can expect just to
22 clarify for some of the folks that maybe weren't

1 there.

2 MR. MCKENZIE: Well, we heard the
3 comments and we have addressed many of those
4 comments in the proposed rule that's getting ready
5 to come out. And we've abbreviated the proposal
6 and cleaned it up from some of what was published
7 last spring and we anticipate getting that out as
8 early in the year as we can.

9 MR. STAFFORD: Any other questions or
10 comments for Dean? Go ahead, Kevin. Identify
11 yourself.

12 MR. CANNON: Kevin Cannon, Employer Rep.
13 It's a follow-up on Steve's comment. Is there
14 going to be another round of ACCSH review for that
15 or it's going straight to the Federal Register?
16 Because I thought it was very helpful for ACCSH
17 and the stakeholders to get a preview of what you
18 guys had drafted.

19 MR. MCKENZIE: I believe that we've done
20 that and the next step will be to publish the
21 proposed rule.

22 MR. CANNON: Okay.

1 MR. STAFFORD: Good. Any other
2 questions, comments for Dean? All right, thanks,
3 Dean. Thanks very much.

4 MR. MCKENZIE: Thank you.

5 MR. STAFFORD: Well, we're a little bit
6 ahead of schedule. I don't know if Andrew
7 Levinson's in the audience or not, but I know
8 Jessica Bunting is because I see her from here.
9 So, Jessica, if you're ready, why don't we move
10 you up on the agenda since we've been talking
11 about the Falls Campaign anyway?

12 MS. WILSON: Lisa Wilson. If I could
13 I'd just like to enter Mr. Sander's presentation
14 as Exhibit 1 of the meeting. Thank you.

15 (Exhibit. 1 was marked and admitted
16 into the record.)

17 MR. STAFFORD: Okay, thank you. Well,
18 by way of introduction, Jessica works for CPWR,
19 the Center for Construction Research and Training.
20 We are a partner with OSHA and NIOSH on the Fall
21 Fatalities Campaign, as Dean mentioned earlier.
22 One of our activities, responsibilities at CPWR is

1 that we've been taking a look at OSHA data that
2 they've collected when folks are -- as a part of
3 the campaign, coming in and getting their
4 participation certificate. And so Jessica is in
5 our Research to Practice Office. And I guess this
6 is Jessica's second year of actually handling the
7 data for OSHA in terms of doing the analysis of
8 participation in the campaign. And I think it's
9 timely based on Dean's comments.

10 So, Jessica, we move her up front to
11 talk a little bit about the reach that the
12 campaign has had because I would like to echo what
13 Dean said earlier. I mean, we're talking about 4
14 million people that have been touched in one way
15 or the other on this campaign, which is a pretty
16 impressive start from a lot of us that are just
17 volunteering our organizations, just doing a lot
18 of elbow grease and not a lot of resources in
19 terms of the national campaign. So it's been
20 really very healthy.

21 This is the kind of partnership that I
22 was talking about yesterday with OSHA. When we

1 agree on something, the stakeholders agree on it
2 and we partner up and we do it together. And this
3 is the kind of partnership that I was hoping that
4 we would have and still hope that we'll have in
5 our Leadership Training Program with OSHA.

6 So with that, Jessica, please.

7 MS. BUNTING: All right. Thank you,
8 Pete. So today I will actually be presenting on
9 just a portion of the numbers. So these numbers
10 are based on the certificate database that we were
11 talking about earlier. So they only -- oh, thank
12 you -- they only include the information that was
13 received when people went to the website to get a
14 certificate and filled out the information.

15 And one caveat I should mention is that
16 there was a portion of time where there were
17 certificates being printed, but information was
18 not being collected. So we had 891 certificates
19 that were printed and we used that number. And
20 based on averages we just extrapolated some
21 information, but we did not actually have people
22 filling out the database for a portion of time.

1 So this is just some pictures from
2 successful events and that's what the certificate
3 looks like. And then these are the numbers.
4 Again, the top numbers are based on the inclusion
5 of the 891 certificates, so when we average
6 everything out it looks like in 2015 just from the
7 certificate database alone we reached over
8 1,041,000 workers. So the actual number of
9 entries was lower than 2014, but the number of
10 workers reached was higher.

11 Then if look at the numbers based on who
12 participated for both years versus 2015 only and
13 2014 only, those numbers we didn't have the
14 information for the 891, so they could be off a
15 little bit, but our estimates show that we got
16 about 1,500 new companies. And then we had the
17 companies, 2,400, that only participated in 2014,
18 and then we had a number of companies that
19 participated both years. And one thing that is
20 not mentioned here is that we got a lot more
21 descriptive data in 2015 versus 2014, so people
22 actually took the time to provide more information

1 than just the drop-down boxes we had. About 78
2 percent of entries included descriptive
3 information this year compared to 60-some last
4 year.

5 And then looking at the frequency and
6 amount of participation, we had more companies in
7 2015 participate on multiple job sites and on
8 multiple days, so about 449 that did more than one
9 job site compared to 409 last year; 467 who
10 participated on more than one day. But then if you
11 look at the participation for the full Stand-Down
12 period, that really dropped. When we only did 1
13 week, we had 209 companies that participated every
14 single day versus 85 for the 2-week period.

15 But we came up with a number at the
16 request of OSHA to sort of look at reach and not
17 just the overall number of workers, where in the
18 total number, if a worker participated for five
19 days, it was still just counted as one worker. So
20 this adjusted total at the bottom sort of takes
21 into account the number of times each worker was
22 hit. So taking into account the multiple days, if

1 we look at that, then we would have reached the
2 equivalent of like 3 million we're calling it
3 workers, by Stand-Down Day.

4 All right. And here we have a breakdown
5 by type of construction. So I'm just going to
6 mention that this is all self-report, so it's
7 however the company or the person filling out the
8 certificate identifies themselves. So there's not
9 a ton of difference here in the actual stand-
10 downs, maybe a little bit less commercial, more
11 government.

12 The most interesting part is when we
13 look at the number of workers reached. So here we
14 have government skyrocketed from 2014 to 2015, and
15 we actually dropped on workers on commercial
16 construction, which we don't really have a huge
17 explanation for it since, again, it's self-report.
18 But that is one interesting thing and that comes
19 into play later when we look at the regional
20 information.

21 So we looked at small stand-downs. This
22 is important to note, and many of you may remember

1 this from last year, that we're not asking company
2 size in the certificate database, so this is just
3 the size of the stand-down, the number of workers
4 who participated in the stand-down, not the size
5 of the company. But we looked at this because the
6 original goal of the campaign which we sort of
7 expanded on was to reach smaller residential
8 contractors and workers, so we just sort of wanted
9 to look into that a little bit. And we found that
10 this year it dropped a little bit, the number of
11 stand-downs that had 25 or fewer workers, so 44
12 percent. And about half of the residential
13 construction industry entries had 25 or fewer
14 workers.

15 But then when we look at the really
16 small stand-downs the numbers drop a lot. Only
17 about 2 percent of residential construction
18 industry entries were 10 or fewer workers. And we
19 found that part of the reason that might be is
20 that some of the smaller companies, and I'll get
21 to this a little bit more in a minute,
22 participated with other stand-downs. So if it was

1 a subcontractor, they would go to the general
2 contractor stand- down or they would send their
3 workers to an all-day training somewhere else,
4 figure out how to piggyback off of a different
5 stand- down.

6 And we looked at some of the comments
7 specifically from the really small stand- downs,
8 10 or under, and we found one thing of note was
9 that they were really excited to participate. The
10 first quote on here has somebody who held a one-
11 on-one meeting with their one employee to discuss
12 falling from heights and fall prevention methods.
13 And the second quote about, "Even though we are
14 few in number, the staff likes being part of this
15 national event." That came from I think a four-
16 person stand-down.

17 So people are excited to participate. I
18 think we just need to figure out how to get this
19 information into the hands of those smaller
20 companies a little bit more.

21 And then we found, again, that many
22 participated in another company's event or

1 attending a training session to supplement their
2 own activities, so you can see some quotes on
3 that. And there is a full report that's available
4 on OSHA's Stand-Down and Falls page. It's
5 available on the Stop Construction Falls website
6 and also on NIOSH's website. So it's about 25
7 pages. You may not want to read the whole thing,
8 but we have a lot more quotes and descriptive
9 information in there.

10 And then we had people who just sort of
11 figured out how to make the stand-down work for
12 their small company and just did something fun or
13 got creative on their own, made their own
14 materials.

15 If we look at the activities conducted,
16 and this is on stand-downs of 25 or fewer people,
17 there is not a ton of difference between either
18 2014 and 2015 or this and the next chart, which
19 has the total activities conducted on all stand-
20 downs. You can see that training and equipment
21 inspection are the most frequently conducted
22 activities in 2015 with meetings and handouts

1 being the highest used in 2014. And then this is
2 the chart for activities conducted on all stand-
3 downs. Again, not too different from the 25 or
4 fewer.

5 I should mention, again, that as this is
6 self-reported data, we are relying on the
7 descriptive data here, so they had to actually
8 tell us what activities that they did. And I did
9 an extensive keyword search and counted out the
10 number of times that all of these different
11 activities were done.

12 All right. And here we have information
13 by OSHA region. This sort of matches up with what
14 our overall numbers and percentages said, so we
15 had a decrease in stand-downs in every region but
16 number 6, but we had big differences in the number
17 of individuals reached, specifically in 3, 4, and
18 9, and also internationally.

19 And then you may want to look at your
20 handout and compare the two charts. I couldn't
21 fit them all on one slide, so we have the
22 breakdowns for 2015 and then 2014. And I sort of

1 just have circled here what the major differences
2 are, so you can see that the larger numbers for
3 government are coming from Regions 3 and 4, and
4 that while the number of commercial construction
5 stand-downs in Region 9 only decreased by 97, the
6 number of workers reached decreased by 195,000.
7 So that accounts for the decrease in workers
8 reached in commercial construction. Then
9 internationally, though, we had a bigger number, a
10 pretty similar number of stand- downs, 29 versus
11 21, but a big increase in the actual number of
12 workers reached in commercial construction.

13 And then here are some maps. The report
14 has all of these specific numbers and percentages
15 in tables that provide more detailed information,
16 but just so we can see at a glance, you know, what
17 states participated the most, we have the darker
18 states on the map had the most participation. So
19 this is number of stand-downs in 2015 and then
20 this is the number of workers reached. And again,
21 the number of stand-downs in 2014 by state and the
22 number of workers reached.

1 And then we had a section for comments
2 and recommendations. And I think this has been
3 really helpful in the discussions we have been
4 having about how to improve for 2016 and we can
5 improve reach and promotion by following some of
6 this advice.

7 One thing that came up repeatedly in
8 both years was that there were companies focusing
9 on secondary hazards. So they were doing a stand-
10 down focused on falls, but while they were doing
11 it, they were also adding in things like heat.
12 There were a couple of other topics that came up,
13 but heat was the one that kept recurring, which
14 obviously is timely.

15 And then another thing that we noticed
16 actually before we ever did any data analysis, but
17 has been confirmed, is that a lot of general
18 industry companies are figuring out how to
19 participate and make the stand-down work for them.
20 And they would love to see more materials that are
21 not just geared toward construction.

22 Another comment was that companies

1 appreciated the materials that our organizations
2 are putting out, but many of them got creative and
3 made their own materials. They were big on
4 contests and games that they just created within
5 their own job site, and so that's something that
6 maybe we can look at when we're coming up with new
7 materials for 2016.

8 And another interesting item was that
9 both in 2014 and 2015, people were doing
10 community-wide, town-wide, city-wide stand- downs.
11 We got more descriptive information on it in 2015,
12 though, where people were describing at one point
13 there was a mayor involved promoting it. We had a
14 bunch of companies that just took it upon
15 themselves to coordinate with each other and
16 decide on this particular day we're going to do a
17 stand-down. So I think that that could be
18 something that we could suggest and promote, that
19 people band together.

20 Another thing that kept coming up was
21 real-life examples, and this came up in sort of
22 two different ways. In 2015, much more so than

1 2014, we had a lot of people mention that,
2 unfortunately, they had recent tragedies to draw
3 from, either within their company, within their
4 town, something that they'd heard of nearby, and
5 so a lot of them were using real-life examples in
6 their stand-down. And I think that that sort of
7 coincides with the recent data coming out that
8 falls are up, likely due to construction being up
9 in the economy, but that's something to take into
10 consideration.

11 Then on the flip side of the coin, many
12 companies were requesting information on real-life
13 examples so that they could share that and really
14 make sure that their workers were relating to the
15 lessons. So we just have to think about is there
16 a way that we can better promote videos and case
17 reports that include real-life examples. CPWR has
18 fatality maps where you can click on each dot and
19 learn about how the fatality happened. So we do
20 have some information on this, we just need to get
21 it out there to these folks.

22 And then we had some opinions on the

1 format. We already talked about in 2016 it's
2 going to be one week. We took into consideration
3 this information that there were mixed reviews. A
4 lot of people did like the two weeks because it
5 gave them more time, more flexibility to
6 participate while feeling like they were still in
7 the stand-down period. But then when we actually
8 looked at the numbers, which I presented earlier,
9 we found that people were more likely to
10 participate in the full stand-down when it was
11 only one week.

12 And then we did get a lot of
13 acknowledgement about it being paired with other
14 safety weeks, and I think that definitely brought
15 people in. We had people saying that they were
16 participating as part of ASSE's safety week, et
17 cetera.

18 And then finally, some participants
19 appreciated the momentum generated by building on
20 this same event year to year, and there were
21 several positive comments that 2015 was even
22 better than 2014. But in both years there were

1 suggestions to keep the stand-down, but change the
2 topic. However, in 2015, I think maybe people are
3 getting used to this idea of a repeated stand-down
4 on falls and there did seem to be more support for
5 that.

6 All right. Additional positive feedback
7 from both years, great marketing of the program,
8 great resources, no changes needed. And
9 additional positive comments for 2015, employees
10 were very engaged, it was great to be part of a
11 national event, and there was more notice than
12 last year. And that had been a complaint in 2014,
13 there wasn't enough notice or promotion, so that's
14 good to hear.

15 Additional recommendations. Provide
16 materials in other languages. This was a request
17 languages beyond English and Spanish, so I think
18 people feel confident that there are enough
19 materials, even in Spanish, but they're looking
20 for Polish and other languages that we don't
21 really provide.

22 Expand audiences and add a wider range

1 of information, general industry, families of
2 workers. And this was a bigger comment in
3 2014.

4 Create ways for companies to share their
5 efforts through social media. People are
6 interested in posting pictures. This came up both
7 years.

8 Let's see, create some competition. Like
9 I said, people are doing that on their own, but
10 they're saying they would love to see some
11 competition at a national level, having OSHA or
12 whatever organizations do a contest so that they
13 have some motivation to participate. I want to say
14 that this comment about more involvement from OSHA
15 was bigger in 2014 than 2015, but people wanting
16 their local, regional officers to actually come to
17 their events.

18 Let's see, promote the event better and
19 earlier. Like I said, that was definitely a
20 bigger thing in 2014, but we still got that
21 comment in 2015.

22 Provide more and better materials,

1 especially videos. We did increase the number of
2 videos available from 2014 to 2015, but people
3 love videos, so that was still a comment in 2015.

4 Provide free web training with tests and
5 quizzes afterward. Several folks mentioned
6 providing hardhat stickers, which this came up
7 both years and we provided them. We really handed
8 them all out. Even in 2015, CPWR also had hardhat
9 stickers in addition to OSHA's, so people either
10 just don't know that they exist and we need to do
11 a better job of getting them out there, but we ran
12 out, so I'm not really sure what to do about that.

13 Confusion around the term "stand- down."
14 This was by far a bigger issue in 2014, so it must
15 be catching on, but it was still mentioned a
16 couple of times in 2015. People didn't understand
17 what a stand-down was.

18 All right. Additional recommendations
19 in 2015. We had a few people mention that we
20 should be consistent in the date and format of the
21 stand-down, so comments like wasn't this in June
22 last year? Going from June to May, some people

1 didn't like. So now, I mean, that's fixed. We're
2 doing it in May again.

3 Change of the materials from one year to
4 the next, which we're just going to have to
5 generate some new materials, I guess.

6 Improve the certificates. Several
7 companies mentioned wanting more detailed
8 certificates, so they want to put both the company
9 name and individuals' names, for example.

10 Too many options, a need for more focus.
11 And some people mentioned problems posting to the
12 OSHA event calendar where they posted an event and
13 it never showed up.

14 But all in all, I think it was very
15 successful.

16 MR. STAFFORD: Thank you, Jessica. Very
17 good. Yes, we'll start with Don and then go to
18 Steve. Don.

19 MR. PRATT: Jessica, thank you. How did
20 you determine the difference or the numbers
21 acquainted to more work in the industry? I mean,
22 we definitely had more work in '15 than we did in

1 '14. How did you adjust the numbers or didn't
2 you? So is there any adjustment in these numbers
3 that we can rely on? Because it doesn't seem to
4 me with the increased amount of work that we've
5 done that the numbers really justify more work
6 going on in the industry, more workers out there
7 that would participate in this.

8 MS. BUNTING: So you would expect it to
9 be higher, you're saying?

10 MR. PRATT: Absolutely.

11 MS. BUNTING: So there is no adjustment.
12 This is just based strictly on the information
13 provided in the certificate database. But this,
14 like I said before, is just a portion of the
15 people that participated. We got a report from
16 the U.S. Air Force, said they had I think 1
17 million workers of their own participate. We've
18 also received anecdotal information.

19 So, Dean, do you know what the final
20 estimate that you're using is for 2015?

21 MR. MCKENZIE: Not off the top of my
22 head.

1 MS. BUNTING: But it's definitely
2 significantly higher than 2014. As far as why
3 it's not as much higher as you would expect, that
4 I don't know.

5 MR. STAFFORD: The short answer is, no,
6 there is no denominator data, so that we weren't
7 looking at the number of workers in the industry
8 versus one year and the other, right.

9 MS. BUNTING: So part of the problem
10 with that, too, is because this isn't just
11 construction workers, it covers other industries,
12 general industry and government, I did at one
13 point try to figure out how to determine how many
14 workers of the total number that we are reaching,
15 but there was just no way for me to even get a
16 denominator.

17 MR. STAFFORD: Right, yes.

18 MR. McKENZIE: If I can, this is Dean
19 McKenzie, OSHA. You know, when we talk about the
20 stand-down with our stakeholders and we try to say
21 pull a certificate, this is what we do with that
22 information. How do we improvement it? What do

1 we do? But if employers don't pull it, we
2 suspect, in 2015, that a lot of folks held stand-
3 downs, but they already had a certificate and so
4 they didn't go do that again. You know, if they
5 don't pull that and don't tell us anything --
6 because all you have to do is tell us very little
7 information.

8 We put free-form boxes in the
9 certificate survey that people can tell us and
10 that's where a lot of Jessica's stories came from,
11 but as you reach out to folks or as you're talking
12 with folks, if you can encourage them to pull the
13 certificate, this is why. It's just this data
14 helps us measure if we're having an impact, how
15 far we're reaching, you know, what are we getting
16 done here.

17 MR. STAFFORD: Maybe there's other ways
18 we can think about, too, of trying to get the
19 numbers beyond just folks downloading a
20 certificate and some way tracking people that
21 participate other than just getting a certificate
22 somehow. I'm not sure of that.

1 Steve Rank and then we'll go to Roger.

2 MR. RANK: Steve Rank, Ironworkers.

3 Jessica, I just want to commend you and the CPWR
4 for this very detailed report. And looking at all
5 the charts and the graphs that you've done here
6 and the breakout from number of employees to
7 different industries, I think you left nothing out
8 and I wouldn't change anything. In fact, I would
9 like to recommend that you leave the format the
10 same so that we can do a comparison of what you
11 have now on the categories, which I think are
12 excellent, and compare them to your next report.

13 And my second question is, can this
14 document -- and maybe I should know -- can this
15 document be posted on the OSHA website? Because I
16 think it's such a good, detailed report that it
17 would maybe encourage big groups to get involved
18 and look at this and participate maybe. So can
19 this be posted on their website?

20 MR. STAFFORD: I'll look to Dean to
21 answer that. I don't see why not.

22 MR. MCKENZIE: It is.

1 MR. RANK: It already is?

2 MR. MCKENZIE: It already is.

3 MR. RANK: Oh, good.

4 MR. MCKENZIE: It has been for a couple
5 of week.

6 MS. BUNTING: There's a more complete
7 report that's posted there.

8 MR. RANK: Okay. Very good.

9 MR. STAFFORD: All right. Thank you,
10 Steve.

11 MR. RANK: Thank you.

12 MR. STAFFORD: Good job, Steve.

13 MR. ERICKSON: Roger Erickson,
14 Boilermakers. Just a question. There's a lot of
15 great data in here, great program. I was
16 wondering down the road are we going to look at
17 participants in this program to see -- because I
18 noticed under one of the additional
19 recommendations where it's create some
20 competition, as far as tracking how participants -
21 - how their incident/accident rate from falls has
22 been reduced, hopefully.

1 MS. BUNTING: Not that I know of.

2 MR. ERICKSON: I know we can track falls
3 as a whole, but I was just wondering through these
4 participants, through the contractors. Has there
5 been any thought to that?

6 MR. STAFFORD: Are you addressing that,
7 Christine? Okay, Christine.

8 DR. BRANCHE: Christine Branche, NIOSH
9 Federal Rep. You know, that's an excellent
10 question, but I have to say, I guess I feel
11 comfortable saying this because I'm not from the
12 regulatory agency, we have to balance encouraging
13 people to fill out information, then the people
14 from whom they're getting the certificate is the
15 regulatory agency. So there was already some
16 trepidation we know registered by some that even
17 go to the OSHA website to draw the certificate.
18 And that's why this relationship with the National
19 Safety Council and others has been a very good to
20 continue to get information from an entity other
21 than OSHA.

22 You can imagine that the researcher in

1 me would very much like to be able to have a
2 better handle on the denominator, but then we
3 would wonder if that might limit people's
4 participation if they suspected that somehow their
5 putting information in a certificate might then
6 have some relationship to their fall incidents.
7 And I think we have to be careful that we aren't
8 putting people in a position where they may be
9 suspicious that information that they're filling
10 out on the certificate might manifest an
11 investigation or some sort of penalty. And this
12 is the constant battle that we have to walk that
13 line very carefully.

14 So, again, the researcher in me would
15 love to be able to have that information so that
16 we have a denominator that we can make a valid
17 comparison. What we're going to have to do is
18 simply track the BLS data and other sources of
19 information. We do have that -- we're glad that
20 construction starts have improved over the last
21 few years, but, of course, that then makes for an
22 increase in the fall incidents that we're trying

1 to prevent.

2 So we're going to be in a little bit of
3 this muddiness for a little bit until we get a
4 better handle on how to analyze the data. So
5 that's my response.

6 MR. STAFFORD: That was very well stated
7 I think, Christine, and that is the balance. Do
8 we know how many certificates that worked and
9 people went to the National Safety Council versus
10 going to OSHA?

11 MS. BUNTING: I don't know. Whatever
12 happened with that? Did they --

13 MR. MCKENZIE: We have the number. I
14 don't recall it off the top of my head.

15 MS. BUNTING: Okay.

16 MR. STAFFORD: All right.

17 MR. MCKENZIE: We can identify it.

18 DR. BRANCHE: Wait, wait, wait. I just
19 have some other information, I'm sorry. We do have
20 some information. Christine Branche, NIOSH,
21 Federal Rep.

22 Fortunately, we do have some information

1 that I received from the Air Force. And so that's
2 an audience where they've participated in the
3 stand-down and they were able to provide some
4 information on their, fortunately, captive
5 audience.

6 So the information that I have is that
7 in 2012, when they did not participate in the
8 stand-down, they had 1,210 on-duty falls of all
9 sorts. In 2013, there were 1,115 on-duty falls.
10 Their first year of participation in the stand-
11 down was in 2014. They had a reduction, 1,043.
12 And then in the second year that they participated
13 in the stand-down, which was this year, 906. So
14 that's an audience for which we have information
15 to track their participation in the stand-down and
16 a tracking of how it's affected -- they are
17 attributing this reduction to their participation
18 in the stand-down. Thank you.

19 MR. STAFFORD: We do -- somewhere
20 there's information about how many employers went
21 to the National Safety Council because they did
22 not want to come to OSHA to print a certificate.

1 MS. BUNTING: So I don't have that
2 information. Somebody at OSHA, like Dean probably
3 has it. I only have the information that was sent
4 to me to analyze.

5 MR. STAFFORD: Okay, it would be
6 interesting to know because I think it reinforces
7 Christine's point that employers are edgy enough
8 to print a certificate out from the Department of
9 Labor, that that scares them off, that they're
10 going to the National Safety Council.

11 MS. BUNTING: And we have success
12 stories that we've done with interviews from
13 people that are on the Stop Construction Falls
14 website where they told me all about their stand-
15 down activities and then when I asked if they were
16 going to print a certificate, they said, no, they
17 weren't going to bother.

18 And actually, just to comment on Roger's
19 question earlier, part of the problem with
20 figuring out more detailed information is that
21 because of the issues with people feeling like
22 this information is going to be used against them,

1 there are strict confidentiality policies
2 involved. So even if I wanted to follow back with
3 people while analyzing to ask more questions, I
4 can't. We're not allowed. I'm not allowed to
5 print their identifying information anywhere.
6 We're not allowed to use this beyond the data
7 analysis.

8 MR. STAFFORD: Okay, thank you. Steve,
9 please.

10 MR. HAWKINS: Steve Hawkins. You know,
11 what Ms. Bunting just said, if you were going to
12 try to determine some effectiveness for the
13 program you'd really have to look at the sites
14 where the presentation was made and see what their
15 experience was with falls over the next six months
16 or not even falls, but even instances where people
17 weren't tied off or weren't protected by
18 guardrails, that kind of thing.

19 I'm not sure how to say this correctly,
20 politically correct, but I don't feel a burning
21 need to have that information. We know falls kill
22 people. We know workers don't necessarily know

1 what they're supposed to do. This is an outreach
2 effort. And, frankly, just training them for an
3 hour once a year is minimal. You almost wouldn't
4 expect that it would have great measurable results
5 as far as fatalities go. I guess to me it just
6 falls in that category this is the right thing to
7 do, we should be doing it, and if we can't measure
8 it, to heck with it, we still need to do it
9 because we know workers don't know exactly what to
10 do and they don't know how important it is.

11 There's two things that happen: they
12 get educated and it also puts them employer on
13 notice. It's kind of like he placed or she placed
14 themselves, the employer place themselves on this
15 list of we think this is important. So if an
16 employee a week later says, hey, are you sure you
17 want me to go up there without my harness? You
18 know, we just had that fall protection training.

19 So I just think there's so much good to
20 come out of stand-downs like this that -- my fear
21 is somehow if we can't document that the numbers
22 went down and, as she said, it's so difficult to

1 do, I don't even want to look because I don't
2 think you could quantify. We just need to
3 continue to do this. And I think ACCSH should go
4 on the record with a recommendation that the
5 Agency continue to do the Fall Protection Stand-
6 Down without regard to whether results are
7 actually measurable given the unlikelihood that
8 people would report back and so forth.

9 MR. STAFFORD: Okay.

10 MR. HAWKINS: I know the work that NIOSH
11 does, I know that you're all about quantifying
12 that and that's great, but you would have to set
13 this up on the front end to be able to do that.

14 DR. BRANCHE: We wouldn't be able to do
15 it.

16 MR. HAWKINS: Yes, so I just want to say
17 that. Thank you, Mr. Chairman.

18 MR. STAFFORD: No, I appreciate that,
19 Steve. So on the record in terms of proceeding
20 beyond 2016 because it sounds like that's done. I
21 mean, we are doing it in 2016. Is that --

22 MR. HAWKINS: Or not even in the form of

1 a motion, just acknowledgement by what I think
2 everyone at this table feels, that this is a great
3 effort. And, you know, OSHA finds success
4 sometimes in strange places, so I don't think
5 anyone thought initially that this would gain a
6 life of its own, just like I don't think anyone
7 anticipated that the 10 and 30 hour would gain the
8 life that it gained.

9 So we have something that appears to be
10 working. We have a lot of participation. I know
11 we were called to provide speakers in our state,
12 which we did. And it's interesting that people
13 said we would like to see that because they do
14 like see that. It's strange to me to go somewhere
15 and you say you're from OSHA and welcomed, maybe
16 have your name on a little board.

17 (Laughter.)

18 MR. HAWKINS: That's pretty freaky
19 because I've been at this for 29 years and it
20 wasn't always that way, I can assure you. I had
21 one guy once say, you're from OSHA. He said,
22 well, thank god, the only thing worse would be if

1 my mother-in-law showed up this morning.

2 (Laughter.)

3 MR. HAWKINS: So that was one of the
4 funny ones in my early career.

5 MR. STAFFORD: Wow, yes.

6 MR. HAWKINS: That's what the employer
7 actually said to me, the only thing worse than you
8 showing up this morning would be if my mother-in-
9 law came in. I never met her, but I take his word
10 for it.

11 MR. STAFFORD: All right. Well, we'll
12 have that on the record for you.

13 (Laughter.)

14 MR. HAWKINS: Strike that from the
15 record. It wasn't my mother-in-law, it was his.

16 (Laughter.)

17 MR. HAWKINS: You know, I just think we
18 should encourage the Agency. We have to keep
19 doing this. Tennessee wants to continue to
20 participate. And we actually did two. We
21 participated in this one and then we did a Health
22 Hazards Stand-Down a few weeks later. Our AGC,

1 ABC, Tennessee Road Builders Group put that
2 together, kind of a consortium, and did that on
3 our own, so we did both of them.

4 And I think employers -- I think what we
5 find is people are very willing to do things if
6 someone else does the work. You hand someone the
7 document, the PowerPoints, here's what you do,
8 here's the certificates, here's the stickers. And
9 we had our own stickers made for the second one.
10 You know, it seems like employers are willing to
11 participate when you kind of got a canned program.

12 MR. STAFFORD: Right.

13 MR. HAWKINS: So hats off to the Agency,
14 I think.

15 MR. STAFFORD: Okay. No, I agree. I
16 appreciate that. Cindy?

17 MS. DePRATER: Cindy DePrater, Employer
18 Rep. Steve created the perfect segue into my
19 comment, which is not the mother-in-law, but the
20 success that OSHA has had and the far-reaching
21 success that they have had. Having participated
22 the past two years internationally and personally

1 in India and Malaysia, I see these numbers going
2 up for the international group. Two comments.

3 One is I don't necessarily think we need
4 to translate into a lot more languages because we
5 do provide translators at the job sites. And I
6 think that maybe mentioning that is -- you know,
7 you do have verbal translators. You do have
8 translators that can put it into another written
9 language.

10 But I will tell you that lives are
11 important, as we all know, and the impact that I
12 have seen internationally is wonderful because
13 those workers, on a lot of those jobs, don't have
14 the same equipment, they don't have the same
15 opportunities. And the training and the education
16 and the demonstrations that I saw provided because
17 of what this campaign has done are having far,
18 far-reaching effects. And so that is a true
19 positive statement for this program and it echoes
20 what Steve said, that we need to continue to do
21 this and not forget about the international groups
22 and the lives that we can impact there.

1 The second is just a question on posting
2 pictures. Are there opportunities to do that?
3 And if so, can we make that more prevalent so that
4 people know where, if it's Facebook, some sort of
5 social media, or something? How do we capture
6 that more readily?

7 MS. BUNTING: Dean, I don't know if you
8 want to answer this. There was an attempt at a
9 Facebook page.

10 MR. STAFFORD: Christine.

11 DR. BRANCHE: Christine Branche, NIOSH.
12 You know, NIOSH does have a Flickr site and we
13 certainly are in a position to collect those
14 photographs and then make them available. That
15 won't be a problem. We can do that.

16 MS. DePRATER: I do see a lot of our
17 groups that really want to do that.

18 MR. MCKENZIE: We have done some, but,
19 you know, I've got to be honest, the number that
20 we could collect is daunting and the bandwidth it
21 would take.

22 MS. DePRATER: Allow one.

1 MR. MCKENZIE: One of our challenges
2 this year with those certificates was our web
3 servers were fickle, I'll say. You know, we had
4 challenges getting everybody access to the
5 certificate page. So we've looked at it and we
6 have posted some from '14 are on the stand- down
7 page, but to try to put all of them up, and if you
8 start down that path, how do you select? And, you
9 know, that seems a little challenging.

10 DR. BRANCHE: Right, same for us, we
11 couldn't do them all. We wouldn't have the --

12 MS. DePRATER: What if we did set up a
13 Flickr page? Because that's free. You can
14 download pictures.

15 DR. BRANCHE: Christine Branche, NIOSH.
16 If someone would be willing to assist in the
17 campaign and the stand-down by providing that
18 effort for free and then allowing us to link to
19 that site, I think that would be a great community
20 effort.

21 MR. MCKENZIE: Absolutely.

22 DR. BRANCHE: And if I can, Mr. Chair,

1 if Ms. DePrater was finished. Were you?

2 MS. DePRATER: I yield the floor.

3 DR. BRANCHE: Christine Branche, NIOSH.

4 The issue of the language, Turner Construction and
5 other large construction companies or even medium-
6 sized construction companies are in a position to
7 provide resources for translation onsite, whether
8 it's in an international setting, as you spoke to,
9 or in the United States or I should say North
10 America in general.

11 But knowing that the campaign was
12 originally designed for small construction
13 contractors with messages to them, and we're
14 trying to make certain that we are mindful of the
15 fact that that's the group of people that we still
16 need to affect with the campaign and the stand-
17 down, you know, I would want to go back to our
18 colleagues at OSHA and perhaps others who've done
19 translations for their own use in languages other
20 than in Spanish to see if we can provide the
21 information in some languages other than in
22 Spanish. I think we have Polish on the OSHA

1 website and a couple of others. Because we do
2 want to make certain that small construction
3 contractors have the resources available to them
4 as readily as they do in Spanish now. Thank you.

5 MR. STAFFORD: Thank you, Christine. Any
6 other questions or comments for Jessica? I can't
7 take comments. If you would like to make
8 comments, sign in at the back of the sheet and you
9 have time at the end of the meeting.

10 Jessica, thank you, it's very good. We
11 appreciate your time.

12 We are going to take a break. Before we
13 do that, though, I think that we have Mr. Levinson
14 in the audience. Yes, there he is, to talk about
15 we've been asked to take a look or OSHA has asked
16 our Committee to give an opinion about the
17 elimination of Social Security numbers in the
18 data.

19 So, Mr. Levinson, if you're ready to do
20 that we'll have this conversation now before
21 break. Damon, are you good? Andrew, you ready?

22 MR. MCKENZIE: Come on up.

1 MR. STAFFORD: So Damon sent out the
2 proposal that you all should have, right, and had
3 a chance to take a look at it. It was about a
4 one-page summary of the issues.

5 So, Mr. Levinson, thank you very much.
6 The floor is yours.

7 MR. LEVINSON: Thank you. So given that
8 I'm standing between you all and a break, I will
9 be very brief. So I'm sure everybody here pays
10 taxes and is familiar with Social Security
11 numbers, and I'm sure that you're all familiar
12 that they've gone and been used in an awful lot of
13 places and ways that they were never intended when
14 they were developed in
15 1936.

16 So one of the things that's becoming an
17 increasing concern is identity theft. As you may
18 or may not know, the United States Government
19 itself has been the target of some identity theft.
20 And as a result of the far and wide use of Social
21 Security numbers, increasing concerns about
22 identity theft, OMB, when we were doing the

1 Proposed Rule on Silica, which is now being
2 finalized, raised the issue of Social security
3 numbers in OSHA's standards and asked us to deal
4 with the issue in both Silica and then all of our
5 other standards.

6 What we decided to do as a result of
7 that conversation was try and address the issues
8 of Social Security numbers in one fell swoop
9 through all of the standards at one time. Now,
10 Social Security numbers are used predominantly in
11 our substance-specific standards. They are used
12 for exposure records, surveillance records, and
13 then very often in mandatory appendices that
14 accompany the standards that have medical records
15 or forms for medical personnel to fill out.

16 When you look at Social Security
17 numbers, they're used in 19 different general
18 industry standards, 6 construction standards, and
19 1 maritime standards. So, for example, in
20 construction it's in 6 standards used 17 times.
21 Those 17 times are generally an exposure record, a
22 surveillance requirement, and then also an

1 appendix that contains a form that a medical
2 provider would fill out that includes a line for
3 the Social Security number. And so that's how you
4 get from 6 standards to 17 mentions of Social
5 Security numbers.

6 These are the six construction standards
7 that have Social Security numbers mentioned. Most
8 of them substance-specific and then HAZWOPER.

9 And what we are proposing to do is in
10 the upcoming Notice of Proposed Rulemaking for
11 SIPS 4, which has I think it's May of 2016
12 proposed timeline for the proposal, that in SIPS 4
13 we would propose elimination of all of the
14 mentions of Social Security numbers in all of the
15 OSHA standards at that one time. We are not
16 proposing to replace them with anything. We are
17 just simply deleting the requirement that Social
18 Security numbers be included in all places in the
19 OSHA standards.

20 And with that, we're hoping to reduce
21 identity theft and we ask the Committee for a
22 recommendation to proceed on this proposal.

1 MR. STAFFORD: Any questions or
2 comments?

3 (No response.)

4 MR. STAFFORD: So you're not replacing
5 it with any kind of identifier?

6 MR. LEVINSON: No. No, trying to
7 develop our own replacement for the Social
8 Security system would diminish our resources
9 substantially.

10 MR. STAFFORD: I can appreciate that. So
11 any questions or comments? Yes, Don, please.

12 MR. PRATT: Don Pratt, Employer. Just a
13 quick question. Does anybody know why it was ever
14 requested to begin with?

15 MR. LEVINSON: Yes.

16 MR. PRATT: I mean, to weigh something
17 like this, I really need to have the background.
18 Why was it created?

19 MR. LEVINSON: Right. So the main
20 reason was the concern that a company might have
21 two John Smiths, and so it was a unique identifier
22 that people could use to keep exposure records and

1 surveillance information. It then ultimately was
2 used by many people for surveillance research, as
3 well, although there hasn't been as much industry-
4 wide surveillance research as people initially
5 thought might happen as a result of that. So that
6 is one small piece of it.

7 We did have a discussion with NIOSH as
8 we were preparing the proposal and they understand
9 concerns and didn't raise any objections.

10 MR. STAFFORD: So how would you now make
11 the distinction between two John Smiths?

12 UNIDENTIFIED SPEAKER: Birthdays.

13 MR. LEVINSON: So, right, what we would
14 do is we would leave it up to employers to figure
15 out how to do that. In the same way, for example,
16 schools used to -- colleges and universities used
17 to use Social Security numbers and many years ago
18 they moved away from that system. So it would be
19 up to the employer to figure out how to do that.
20 But any additional requirement to establish unique
21 identifiers would have very substantial paperwork
22 burdens and substantial costs on employers that we

1 think that they can deal with without a
2 requirement.

3 MR. STAFFORD: Yes, Roger.

4 MR. ERICKSON: Roger Erickson with
5 Boilermakers. How would you adjust that for the
6 two John Smiths that worked for multiple
7 employers, like a lot of our construction people
8 do? I mean, if all the employers around the
9 country don't have the same identifier, how are we
10 going to be able to track the surveillance or
11 whatever?

12 MR. LEVINSON: So the surveillance is
13 for the individual employer, so it's up to that
14 employer to do their own surveillance in the OSHA
15 standards. Sometimes researchers do surveillance,
16 but that's not something that is intended or
17 covered or costed in any of the OSHA standards.

18 MS. WILSON: Lisa Wilson. I would just
19 say I am involved with this project and one thing
20 that many employers said when they comment on the
21 Silica rule is that employers are currently coming
22 -- many employers are coming up with their own

1 identifying numbers. And OSHA has a couple
2 interpretations out there that already allows
3 employers to use their own generated numbers if
4 those numbers currently can be linked back to the
5 employee records. Because apparently, also, many
6 employees object to providing their Social
7 Security numbers on these kinds of records.

8 MR. STAFFORD: Right. So let's hear the
9 employers, I'd like to hear from you. I mean, if
10 it's your obligation to figure out how you're
11 going to develop personal identifiers, what does
12 that mean to you?

13 MS. DePRATER: Cindy DePrater, Employer
14 Rep. We do have unique identifiers and we are
15 moving away ourselves from Social Security except
16 for the tax, the 1099s, and all of that, but
17 everything else is done by an employee ID.

18 MR. STAFFORD: Tom?

19 MR. MARRERO: Tom Marrero, Employer

20 Rep. There's still a lot of things that
21 we could utilize: date of birth, date of injury,
22 and so forth we could utilize to identify that

1 particular individual. So I don't see it being a
2 problem whatsoever.

3 MS. DePRATER: And Cindy DePrater,
4 Employer Rep. Let me just comment on that. That's
5 not just for Turner employees. That's for all
6 subcontractors that come to work for us, as well.
7 We do not use their Social Security numbers.

8 MR. STAFFORD: Kevin and then -- Don?

9 MR. PRATT: Yes, Mr. Chairman, Don
10 Pratt, Employer. I am a little concerned about
11 the small contractors. And Cindy, with all due
12 respect, we're not Turner. We're not as big as
13 you guys are. And it's going to be very difficult
14 for us to create those numbers that are
15 legitimate, that can be relied on for something as
16 serious as what we use Social Security numbers on.

17 As an example, doing credit checks. So
18 I'm just throwing that out. I'm not sure I'm
19 going to vote against this, but I've got some
20 questions.

21 DR. BRANCHE: I need to respond to that.

22 MR. STAFFORD: All right. Christine and

1 then Cindy and then Palmer.

2 DR. BRANCHE: Christine Branche, NIOSH,
3 Federal Rep. So, Don, I hear what you're saying
4 about the small employer. There's nothing that
5 says that it has to be a unique identifier number.
6 It just needs to be a way to identify person X
7 from person Y. You can do that by name, you can
8 do that by where they were born, you could do that
9 by a number of things without creating a separate
10 number.

11 But, unfortunately, the tax
12 identification number, the Social Security number,
13 has been overused and it was something that was
14 first used by convenience. And for a number of
15 security reasons for many years now people have
16 gotten away from this. So the tide is really
17 against using -- continuing to use the Social
18 Security number for anything other than getting
19 your Social Security benefits.

20 MS. DePRATER: Cindy DePrater, Employer
21 Rep. Don, I just want to respond to that. When I
22 said that was not all Turner employees, 80 percent

1 or more of the contractors that work on our 1,400
2 projects are 10 employees or less.

3 MR. STAFFORD: Okay, Palmer and then
4 Jeremy.

5 MR. HICKMAN: Thank you. Palmer
6 Hickman, Employee Rep. Pete, I'm glad you raised
7 this. When I read the proposal yesterday about
8 this, it was very absent, conspicuously absent, of
9 the remedy. There's an explanation of why this
10 went in, a couple examples that were in preambles
11 of why this was necessary for these rules. And
12 then I'm certainly supportive of getting rid of
13 Social Security here and probably everywhere else
14 other than Social Security. I mean, it's become
15 ridiculous in many cases to use that Social
16 Security number. Let's call it something else if
17 it's not just a Social Security number, but that's
18 a different topic for a different day.

19 So we've heard now, at least on record,
20 that it's up to the employer. So the request for
21 it to be removed, the explanation of why it was
22 included, but really we don't see a plan laid out,

1 at least in writing in the Power Point or in the
2 proposal, of how this should be accomplished. You
3 know, how the same assurance of tracking the
4 employees can be made, I haven't seen spelled out.

5 MR. LEVINSON: Right, and we don't have
6 a specific proposal. Employers would have
7 flexibility. They need to accomplish the goal of
8 the identification number, which was that they can
9 link exposure records and surveillance information
10 with particular employees. However they do that
11 is up to them.

12 MR. STAFFORD: So who is it? Jeremy and
13 then Alex.

14 MR. BETHANCOURT: Jeremy Bethancourt,
15 Public Representative. So kind of on the same
16 line of what Palmer was saying, that's one of the
17 things that I was thinking is although we don't
18 want to increase a burden, is there any thought to
19 putting suggestions out there when you do have
20 this removed? So that employers, if we're going
21 to leave it open to the employer, hey, you figure
22 it out, a lot of times that puts an employer off

1 because they're worried, you know. Well, you're
2 the regulatory Agency. What if I figure it out
3 wrong, you know, is a thought process that they
4 would have.

5 In our company, we're a small company,
6 we don't utilize Social Security numbers other
7 than for tax purposes. However, again, we're a
8 little bit more in the know. As I'm sitting here
9 obviously, we know a little bit more than others.
10 I can see smaller companies being concerned, well,
11 you just told us that we can't use this. What
12 should we do. Oh, it's up to you. Well, that's
13 just not enough.

14 So, I mean, something like a simple
15 guidance document would be beneficial, in my
16 opinion.

17 MR. STAFFORD: Okay. Alex and then
18 Steve.

19 MR. BELTRAN: Alex Beltran, Painters and
20 Allied Trades. So if I'm coming right out of high
21 school or college and I don't have an employer and
22 I want to get trained in HAZWOPER or any of the

1 requirements that require Social Security and we
2 eliminate it, how does that affect me if I don't
3 have an employer?

4 MR. LEVINSON: So I may be wrong on this
5 one, but the requirements on HAZWOPER don't
6 require that you have a Social Security number.
7 The requirement is that you get training and that
8 you have some certificate of training. So not
9 having the requirement for a Social Security
10 number shouldn't keep you from getting trained in
11 the program.

12 The uses of the Social Security number
13 are only when you are actually exposed or in a
14 surveillance system. And so you wouldn't,
15 hopefully, in your training program, be exposed.

16 MR. BELTRAN: Okay.

17 MR. STAFFORD: Steve, please.

18 MR. HAWKINS: Andrew, correct me, this
19 won't prohibit the use of Social Security numbers.
20 It just won't be required by the Agency.

21 MR. LEVINSON: That's correct.

22 MR. HAWKINS: The employer says I like

1 using Social Security numbers and I'm going to
2 continue to do it, they're not going to be cited
3 for it. They can do it if they want to.

4 MR. LEVINSON: No, that's correct.

5 DR. BRANCHE: But then OSHA -- sorry.
6 Sorry, Christine Branche, NIOSH. But then OSHA
7 would then not be liable if there's a breach in
8 security, so.

9 MR. HAWKINS: I don't think they
10 probably are anyway.

11 MR. LEVINSON: We get sued for a lot of
12 things, but we haven't been sued for that yet.

13 (Laughter.)

14 MR. HAWKINS: Giving me an idea.

15 (Laughter.)

16 MR. STAFFORD: Any other questions or
17 comments? Jerry, did you -- Jerry?

18 MR. RIVERA: No, I'm good.

19 MR. STAFFORD: Any other questions or
20 comments?

21 So I guess we need to frame this up. I
22 mean, the question is what OSHA's asking us is to

1 make a recommendation on what we think about this,
2 so we need to do it in the form of a motion. And
3 if someone would like to make it, I would be happy
4 to listen to that. I would make it, if you would
5 like, but I think that's what we're asked to do is
6 to make a recommendation.

7 (Motion)

8 MR. STAFFORD: So the motion is that
9 ACCSH recommend that OSHA delete requirements to
10 include Social Security number on exposure,
11 medical, and other records generated by current
12 construction standards.

13 MR. RANK: Second.

14 MR. STAFFORD: Okay, we have a motion
15 and a second. Is there any more discussion on it?
16 Yes, Jeremy.

17 MR. BETHANCOURT: Jeremy Bethancourt,
18 Public Rep. I just want to reiterate that in our
19 recommendation that that be done, I think it's
20 important that we also recommend that the Agency
21 provide some guidance to folks that they don't
22 feel like, you know, as to Steve's point, well,

1 you can still do it if that's the way you're going
2 to do it, but let people know that. That would be
3 my one point.

4 MR. STAFFORD: I did not. Okay, well, I
5 think that's a good point. I'm not sure that we
6 need to modify the motion to make that at this
7 point, Jeremy, but I think that's heard.

8 So we have a motion, we have a second.
9 Is there any more discussion on it?

10 (No response.)

11 MR. STAFFORD: All those in favor
12 signify by saying aye.

13 (Chorus of ayes.)

14 MR. STAFFORD: Opposed?

15 (No response.)

16 MR. STAFFORD: Okay, you have your
17 recommendation.

18 MR. LEVINSON: Thank you all very much.
19 And despite it not being in the motion, we will do
20 some guidance on this for best practices. Thank
21 you all very much.

22 MR. STAFFORD: Thank you, Mr. Levinson.

1 We appreciate it.

2 Okay, it's time to take a 10-minute
3 break. Thank you.

4 (Break.)

5 MR. STAFFORD: All right, if you could
6 find your seats, please, I would appreciate it.

7 Okay, please, if you could find your seats, the
8 Committee is reconvened.

9 Can you folks hear me in the back? Tony
10 Brown, we're reconvening, partner.

11 Lisa, do you have three exhibits?

12 MS. WILSON: Mr. Chairman, Lisa Wilson,
13 I'd like to designate the slides on the National
14 Safety Stand-Down as Exhibit 2, the slides on
15 removal of Social Security numbers as Exhibit 3,
16 and also the write-up on the Social Security
17 numbers as Exhibit 4. Thank you.

18 (Exhibits 2, 3, and 4 were marked and
19 admitted to the record.)

20 MR. STAFFORD: Okay, thank you, Lisa.

21 Next on the schedule we have an update
22 on what's happening within the Agency on their

1 data. We have Mr. Ricky Gonzales, I think, and
2 Dr. Rebecca Bilbro. Is that right, Rebecca? Or
3 are you on your own?

4 DR. BILBRO: Yeah, so it's just me
5 today. My name is Rebecca Bilbro. I'm one of the
6 data scientists at OSHA. Ricky Gonzales is my
7 partner. He, unfortunately, couldn't make it
8 today. He has another presentation. He sends his
9 regrets.

10 MR. STAFFORD: I appreciate it. Thank
11 you, Dr. Bilbro.

12 DR. BILBRO: Before I get started, I've
13 been asked to admit that I've added two additional
14 slides to the presentation that you don't have in
15 the version here, but they will be added to the
16 meeting docket and they will also be emailed out
17 to the Committee members today. So stay tuned for
18 those. I'll also flag them when we get to them in
19 the presentation.

20 So I would like to talk about
21 specifically around data, around the serious
22 injury report data that we've been taking in since

1 January 1st and to tell you a little bit about
2 what we've learned so far, particularly through
3 the end of the last fiscal year. I want to note
4 that OSHA data takes time to mature. You know, if
5 we do an inspection of an employer, it takes six
6 months before that data is mature because it takes
7 a while to do inspections and to gather
8 information. So most of the data that we have
9 collected now is not yet mature enough to do a
10 thorough analysis. We have about five months'
11 worth of clean data that has matured and that we
12 are able to do analysis on.

13 So we will have more data soon and
14 especially as relevant to industries like
15 construction, which are highly seasonal. I think
16 it will be valuable to be thinking in terms of a
17 full year of data which reflects sort of changes
18 and seasonality over time.

19 So just to start with the counts of how
20 many serious injury reports we have received, so
21 through the end of Fiscal Year 2015, which is
22 three quarters of serious injury reporting because

1 we started January 1st, we received 8,586 serious
2 injury reports; 523 of those were not valid,
3 meaning that the employer who called to give the
4 report wasn't required to report to OSHA. Of the
5 ones that were valid, 3,094 of them resulted in
6 inspections. That's 36 percent. And 4,969
7 resulted in rapid response investigations. That's
8 58 percent. So again, rapid respond
9 investigations are where the employer is
10 encouraged to conduct their own investigation of
11 the incident and is sort of coached through the
12 process by OSHA, but OSHA doesn't go and
13 physically inspect the workplace. So on average,
14 about 55 percent of amputations are inspected and
15 about 31 percent of hospitalizations are
16 inspected.

17 I think it's also interesting to look at
18 what, if any, impact the serious injury reports
19 are having or will have on traditional
20 inspections, particularly traditional programmed
21 inspections. The serious injury reports, of
22 course, are unprogrammed activity. And as you can

1 see and as we sort of hypothesized going into
2 this, there has been an impact on the balance, the
3 ratio between unprogrammed and programmed
4 activity. You know, over the prior five years,
5 the ratio held fairly steady and it's sort of
6 inverted in the last fiscal year. We believe that
7 that's, in large part, because of the serious
8 injury reports, so being responsive to incoming
9 reports about severe injuries that have happened
10 in workplaces.

11 As it relates to construction, the total
12 percent of construction inspections overall has
13 declined. It has been declining. And if you were
14 to draw kind of a line to show rate of decline,
15 it's fairly steady over the last few years, so I
16 don't think that we can specifically make
17 projections about what impact serious injury
18 reports alone have had on construction
19 inspections. But I do have some data, this next
20 slide is one of the ones that was added this
21 morning. We do have some information about which
22 industry sectors the serious injury reports are

1 coming from.

2 So for construction about 17 percent of
3 the reports that we've received are from
4 construction. And as you can see, that's actually
5 a large percentage relative to the other
6 industries that are reporting, so about 1,500 or
7 1,600 reports have come in from the construction
8 industry.

9 And here is another additional slide.
10 Again, this will be added to the meeting docket
11 and emailed out to the Committee members. But
12 this is a top 10 ranking of the reports by
13 industry, so the top is Postal Service; the next
14 is oil and gas support; then hospitals;
15 supermarkets; electrical contractors and wiring;
16 commercial and institutional building
17 construction; highway, street, and bridge
18 construction; roofing contractors; and temporary
19 help services are in the top 10 -- are the top 10
20 rather.

21 On the topic of underreporting, we do
22 have the sense that we are experiencing

1 underreporting with the severe injury reports. In
2 the Final Rule that we wrote to update the
3 reporting requirements there's a very lengthy
4 discussion about how we were estimating about how
5 many reports that we would receive annually, and
6 our estimate then was 112,000 reports each year
7 with all states reporting, so that includes
8 federal and also state-plan states.

9 Currently, it's just federal states who
10 are reporting. There's a lag in state- plan state
11 reporting requirements. And we only have three
12 quarters' worth of data and five months' worth of
13 clean data of those three quarters. But if we
14 sort of do some estimation to get a feel for the
15 extent to which underreporting is happening, if we
16 say we have 8,586 reports for 3 quarters, that's
17 approximately 2,800 per quarter for just the
18 federal states. And then if you multiply that by
19 4 for a full year, you get 11,448 for a year for
20 just the federal states, which are about half the
21 states in the nation. So if you double that, it's
22 about 22,896 per year for all states, so that is

1 about 20 percent of what we expected to be
2 receiving. So we do have a sense that there are
3 some several underreporting issues.

4 And also, I wanted to sort of note that
5 when you compare the top 10 most frequently cited
6 standards for all inspections and you compare
7 those to the top 10 most frequently cited
8 standards for serious injury report inspections,
9 there is a significant difference. In fact, for
10 the serious injury report inspections the third
11 most commonly cited standard is the reporting
12 requirements. So this seems to support our sense
13 that there is some underreporting problem going
14 on.

15 I wanted to end by talking a little bit
16 about what some of the goals are around using the
17 serious injury report data and a sort of request
18 for your assistance and what you might be able to
19 do to help. The sense is that when we have more
20 valid, clean data, we will have a better picture
21 of the landscape of occupational injuries in the
22 country than we currently do have now.

1 Particularly, we are interested in being
2 able to identify places where we don't have good
3 penetration through our programmed activity and
4 through our traditional unprogrammed activity.
5 You know, places where our emphasis programs are
6 not reaching people, but that we know workers are
7 at risk and where several injuries are happening.
8 And we'll know that because of the severe injury
9 reports. So those are the kinds of areas where we
10 will be trying to focus our analysis, trying to
11 identify those places where penetration is an
12 issue.

13 And when we do have more data and more
14 clean data, we will be making it public. And what
15 we are hoping to ask you for is to help us
16 identify some of those places that might be good
17 candidates for outreach and education,
18 particularly in the cases where, you know, when
19 you look at the data. If you notice places where
20 you are surprised that we are not getting more
21 reports, places where we should be probably
22 receiving more reports, but are not receiving

1 those, those are probably industries or sub-
2 industries where we need to do better outreach and
3 education to employers so that they know what
4 their responsibilities are under the updated
5 reporting requirements.

6 And if there are areas where we are
7 getting reports and we do not have programmed
8 activity, those are places where we would be
9 interested in ideas about developing new emphasis
10 programs to make sure that those workers are being
11 protected, are being covered, and that we are
12 reaching them through programmed activity and not
13 just through reactive unprogrammed activity.

14 And that concludes my presentation. I
15 am happy to take questions, if you have any. And
16 again, I apologize for the two surprise slides
17 added of this morning. They will be added to the
18 docket for the audience to be able to see and
19 they'll be emailed out to you shortly.

20 MR. STAFFORD: Thank you, Dr. Bilbro.
21 Are there any questions or comments? Yes, Steve?

22 MR. RANK: Steve Rank with the

1 Ironworkers. Is this information also rolled over
2 into the IMIS system? I might have missed it on
3 the serious injuries and how we look at the data,
4 injury data, from nationwide on an annual basis.
5 All this information also goes into the IMIS
6 system, is that correct?

7 DR. BILBRO: It's going into the OIS, so
8 the new -- this is the new database.

9 MR. STAFFORD: That is the old IMIS.

10 MR. RANK: Okay, yes. Okay.

11 DR. BILBRO: Yes, so IMIS is our old - -
12 you ask a data person and we get really specific
13 about the databases.

14 MR. RANK: Sorry.

15 DR. BILBRO: Yes, so IMIS is our old
16 database. It's our legacy database and it still
17 has archival information in it, but the new
18 information is being populated into the new
19 database system, which is the OIS.

20 MR. RANK: And I really appreciate when
21 you said that you needed clean information. One
22 of the things that we saw in the old system, the

1 IMIS system, had incorrect information. And I
2 think it starts with the very first -- when the
3 compliance officer is dispatched to do, say, a
4 fatality or a serious injury investigation, that
5 is where it's garbage in, garbage out. And they
6 have got to get the causation factors of the
7 incident correct. If it doesn't, then it gives
8 that whole data, that whole industry or that
9 activity false information.

10 Unfortunately, we found that out when we
11 looked at all the steel erection fatalities. Over
12 a 10-year period there were 673 fatalities. And
13 we looked at the data to only find out that over
14 50 percent of those 673 fatalities have nothing to
15 do with steel erection, and that came straight
16 from the field reports. And so that's why I
17 really appreciate your efforts to get clean
18 information and to make sure that the compliance
19 people are giving you accurate information.

20 DR. BILBRO: Thank you.

21 MR. RANK: Thank you.

22 MR. STAFFORD: Dr. Bilbro, what did you

1 say about the states? Are they doing this, as
2 well? So this is everyone's --

3 DR. BILBRO: They will be. There is a
4 lag time and sometimes it's state-dependent, but
5 they all will be eventually.

6 MR. STAFFORD: Okay. Yes, Steve?

7 MR. HAWKINS: I can probably speak to
8 that. Some are already doing it. Tennessee's
9 already doing it, several states are doing it.
10 Some had to enact legislation and that takes
11 additional time and so that's the lag that Dr.
12 Bilbro is speaking of. So it'll be a while before
13 it's a national number.

14 DR. BILBRO: And some states were doing
15 it before federal OSHA instituted the policy, so
16 some of the states had the jump on us.

17 MR. STAFFORD: I just have one more
18 question. I'm not sure you can answer it. I know
19 a couple of years ago, OSHA discontinued its
20 contract with the University of Tennessee to do
21 the stratification of the Dodge data for job
22 starts, and that's done in-house now. Is the

1 inspection -- how is that -- can you tell me how
2 that's working or same as before or is it
3 different, different targeting mechanisms?

4 DR. BILBRO: I don't specifically work
5 on the targeting program. I do think that the
6 incoming data about serious injury reports will be
7 helpful when we have enough data. It will take a
8 while before we have enough to use that
9 information to help us kind of understand maybe
10 where we're not doing effective targeting or where
11 we can do better targeting.

12 But, yes, insofar as the targeting
13 program goes, it's a combination of our archival
14 data and BLS data that kind of informs. And then
15 for construction there's sort of specific
16 additional data, but it's not a program that I
17 work on specifically, so.

18 MR. STAFFORD: Okay. All right, thank
19 you. Any other -- I'm sorry, Dean, go ahead.

20 MR. MCKENZIE: If you will, Dean
21 McKenzie with OSHA. When we cancelled the U10
22 contractor, it finished, we owned the algorithm

1 that they used and we've brought that in-house and
2 we're running the same program. If anything,
3 we've enhanced it because we have it in-house and
4 we can tweak the individual reports that an area
5 office may request a little bit finer. And we
6 work with the area offices a little bit more
7 closely than U10 could. So that program exists
8 basically as it has.

9 MR. STAFFORD: Okay, thank you. Any
10 other questions or comments? Alex, please.

11 MR. BELTRAN: Alex Beltran, Painters and
12 Allied Trades. I might have missed it in the
13 slide, I had a question on the construction,
14 commercial versus residential on the breakdown.
15 Is there a breakdown on injuries reported whether
16 it be a commercial construction site versus a
17 residential site?

18 DR. BILBRO: There will be, but, again,
19 the total number of reports is so small now that
20 disaggregating it, you know, doesn't really give
21 very valuable information at this point. But
22 there will be a breakdown.

1 MR. BELTRAN: Thank you.

2 DR. BILBRO: And that will be made
3 public for analysis and we will look forward to
4 hearing your thoughts.

5 MR. BELTRAN: Thank you.

6 MR. STAFFORD: Any other questions or
7 comments?

8 (No response.)

9 MR. STAFFORD: Okay. Dr. Bilbro, thank
10 you very much for your time.

11 DR. BILBRO: My pleasure

12 MR. STAFFORD: All right. Who is going
13 to do the Temporary Worker Workgroup Report? Is
14 that Jeremy or Tom? All right, Tom, please.

15 MR. MARRERO: Tom Marrero, Employer Rep
16 and Co-Chair for the Temporary Worker Initiative
17 Workgroup.

18 MR. STAFFORD: Tom, slide that
19 microphone over a little closer.

20 MR. MARRERO: The meeting began with
21 discussions of the recent NACOSH Temporary Worker
22 Initiative draft that initially began in April of

1 2015 for the Injury/Illness Prevention Program,
2 I2P2. According to sources on NACOSH, including
3 Co-Chair Marrero, this draft was constructed to
4 assist OSHA in their efforts to address the
5 Temporary Worker Initiative and to create
6 guidelines that may assist host employers,
7 staffing agencies, and other employers who supply
8 workers efforts to continue workers safe.

9 The Committee also discussed expanding
10 the Temporary Worker Initiative similar to NACOSH
11 to address other forms of temporary labor that was
12 different than the host employer-staffing agency
13 relationship, which is more relevant in the
14 construction industry. These types of employment
15 are considered by most to be day laborers, workers
16 hired through other contractors or sub-tiers who
17 act similar to staffing agencies, but do not
18 provide safety training or oversight, also known
19 by the term "Labor Pimps," and any other labor
20 arrangement that are not --

21 MR. STAFFORD: Is that an official term?

22 (Laughter.)

1 MR. MARRERO: Jeremy, is it?

2 MR. BETHANCOURT: It is a term that is
3 very familiar in the industry, correct.

4 MR. STAFFORD: Okay.

5 MR. MARRERO: And other labor
6 arrangements that are not direct employer-
7 employee relationship as understood by the IRS
8 guidelines.

9 Within this discussion it was agreed
10 that a separate document for these types of
11 workers would be the foundation of ACCSH's
12 efforts, thereby created by subsequent telephonic
13 workgroup meetings. Those documents would be
14 anticipated as very beneficial to assist smaller
15 employers on their responsibilities of what needs
16 to be done when hiring and supervising these types
17 of labor.

18 It was anticipated that the NAHB
19 Representative Rob Matuga and others would provide
20 input towards the document as a means of acting as
21 a voice, and thereby assistance to small
22 employers. The NAHB presented the Committee with

1 an insurance company handout that may assist in
2 the effort that could be used as a guideline. The
3 handout was mainly focused on employee compliance
4 and understanding. And the consensus from the
5 workgroup was that there needs to be a guidance
6 document for employers that aligned of
7 complemented -- a similar type of document as the
8 one presented by the NAHB.

9 It was discussed that ACCSH and NACOSH
10 should align Committee efforts and accomplishments
11 to ensure efforts are not duplicated. Current Co-
12 Chairs are subsequently part of the NACOSH
13 workgroup on the Temporary Worker Initiative that
14 can provide consistent collaboration on ACCSH
15 efforts. It is a recommendation that NACOSH have
16 at least one of their members participate in a
17 similar manner to ACCSH, thereby streamlining the
18 efforts of both congressionally mandated
19 committees.

20 And then our motions of recommendations
21 to ACCSH from the workgroup, one would be to
22 recommend to ACCSH that the NACOSH drafted

1 document in its current revised form be reviewed
2 by ACCSH workgroup for inclusion, modification, et
3 cetera, as a document for consideration by OSHA
4 into the current I2P2 program management guideline
5 for industry, including construction; requests
6 that OSHA provide us feedback on their intentions
7 and rationale one way or another.

8 Two, verify from OSHA or Dr. Michaels
9 that ACCSH Temporary Worker Initiative should have
10 a similar mandate as that of NACOSH to include
11 multi-employers and their diverse relationships of
12 employers to workers on any given work site and
13 how those workers are supplied to the job.

14 Three, to verify with the DOC that ACCSH
15 Workgroup Temporary Worker Initiative can hold
16 monthly meetings to continue progress to assist
17 OSHA and Dr. Michaels on the Temporary Worker
18 Initiative.

19 And four, to again request that Wage and
20 Hour participate and work with OSHA, and thereby
21 the workgroup in determining where they can
22 provide support for workers in the demographics to

1 be treated fairly.

2 MR. STAFFORD: Thank you, Thomas.

3 Jeremy, you have anything to add?

4 MR. BETHANCOURT: No, according to Sarah
5 -- oh, well, the only thing I would add is that it
6 appears that we had a typo in the second paragraph
7 at the end, and I just want to make sure that when
8 that gets put into the record that we fix our
9 typo.

10 MR. STAFFORD: Okay, sounds good. Is
11 there any questions or discussion from the other
12 Committee members?

13 MR. RANK: I just have one.

14 MR. STAFFORD: Yes, Steve, please.

15 MR. RANK: Steve Rank with the
16 Ironworkers. I agree with your concern here on
17 addressing small employers and temporary workers
18 and that whole problem with that industry where a
19 significant amount of workers are getting hurt and
20 yet we don't get the data. We know we don't have
21 the control, we don't have the outreach to that
22 large segment of the workforce, and so it's a

1 huge, serious issue.

2 It also contemplates the underground
3 economy. Many of these small employers you're
4 talking about pay cash out the end of a pickup on
5 a Friday afternoon. Also a lot of these workers
6 are dodging child support and alimony and
7 everything else. And this feeds into these
8 smaller type of things.

9 One of the issues I brought to the
10 Chairman's attention here recently was a provision
11 in the 1999 Appropriations Bill that excluded
12 employers in the construction industry and other
13 industries that have 10 or fewer employees from
14 programmed inspections. Okay? And this became an
15 issue with several contractors that had been
16 working in imminent danger situations, were
17 reported to the Agency, and the Agency
18 appropriately came out and did their inspection,
19 only to find out that they had 10 or fewer
20 employees.

21 And they wrote them a letter, and I have
22 a copy of that I'll share with the Chairman. It

1 says, "Well, upon investigation, this small
2 employer has 10 or fewer, so all we can do is
3 recommend that they provide a safe and healthful
4 workplace. Thank you very much."

5 And so that kind of feeds into your
6 problem here, is I don't know what the Agency can
7 do to tighten that up. Dean, that's a question
8 for you on how the Agency can respond to that
9 Appropriations Bill on programmed inspections and
10 also what the Agency can do to target those
11 inspections on an imminent danger situation.

12 And in the future, I'd like to recommend
13 that we can maybe get an update on that bill and
14 what the Agency can do. That'd be very helpful,
15 Dean.

16 MR. MCKENZIE: Okay.

17 MR. RANK: Thank you, Mr. Chairman.

18 MR. STAFFORD: Sure, Steve. Any other
19 questions or comments? Jerry?

20 MR. RIVERA: Well, I want to thank --
21 this is Jerry Rivera, Employee Rep -- I want to
22 thank the Temporary Worker Group for the thorough

1 report. I just have a question on if you guys
2 could recall some of the discussions that was
3 going on as far as expanding the definition of
4 "temporary worker." I mean, you see a reference
5 of day laborers, "Labor Pimps," and other things
6 here, but how broad is it going to be or how
7 narrow is it going to be? Do you have guys have
8 any direction? Does ACCSH have any direction? Or
9 how do you see that evolving?

10 MR. STAFFORD: Jeremy?

11 MR. BETHANCOURT: Jeremy Bethancourt,
12 Employee Rep. That was actually one of the
13 discussions that we had yesterday in the small
14 group that we had was that we need a definition in
15 asking the Agency to ensure that we have an
16 alignment with the NACOSH, that we would be able
17 to find out what is the definition that they're
18 using and then make sure that we're at least
19 utilizing a similar definition. But, at the same
20 time, what is the definition as its broadened?
21 What's it going to include?

22 So we have the same questions and that's

1 one of the things we're posing to the Agency
2 beyond the current scope of the initiative.

3 MR. STAFFORD: I don't know.

4 MR. BETHANCOURT: Is that what you
5 remember, Pete?

6 MR. STAFFORD: Yes, I mean, I don't know
7 what NACOSH is doing in terms of defining this,
8 but I think that this is something that we do need
9 to take a look at and have a better understanding
10 of the population that we're talking about.

11 And, Dean, I don't know if that's
12 something separate or something that OSHA needs to
13 give us some guidance on or we just kind of figure
14 it out jointly with the NACOSH Committee. So I
15 thought I'd make you think about that.

16 MR. MCKENZIE: Dean McKenzie with OSHA.
17 It is a challenge. Temporary workers can be a
18 very, very broad spectrum, from organized labor to
19 anybody else in a lot of ways. What the Temporary
20 Worker Initiative thus far has included is one
21 slice as an identifiable, finite piece with a
22 staffing agency and a host employer that we try to

1 address. Then the hope has always been to someday
2 be able to, okay, take off the next slice. But
3 it's very easy. We've had conversations in this
4 Committee about expanding that and it came down to
5 pretty much including everyone.

6 You know, in the construction world
7 we're all temporary in a sense. You go build a
8 building or you do a trade-specific -- you know,
9 you get the electrical in, you get the air-
10 conditioning in, you go away. So we're all kind
11 of temporary in this world. So we've just got to
12 keep pecking away at pieces.

13 I do not know what NACOSH is looking at
14 in their definition, but I believe it's probably
15 going to be the same that we are.

16 MR. STAFFORD: Right. Okay, that's
17 fair. I'm sorry, Tom, go ahead.

18 MR. MARRERO: Tom Marrero, Employer Rep.
19 From our understanding, NACOSH was tasked to look
20 at from a multi-employer standpoint, which makes
21 it even broader.

22 MR. BETHANCOURT: And that's what was

1 actually said yesterday. That word was actually
2 what was said yesterday. Jeremy Bethancourt.

3 MR. STAFFORD: Okay, so let me
4 understand so that we can move on, and we'll have
5 to, at some point, take a motion to adopt your
6 report.

7 So we have, and it was distributed and
8 it's in the docket, the draft NACOSH documents
9 that are specifically dealing with the issue of
10 temporary workers with respect to the relationship
11 from the host employer to the formal staffing
12 agencies. And so what you've recommended is that
13 ACCSH, our workgroup, take the NACOSH document
14 and, as a workgroup, go through and figure out how
15 to modify it, if need be, to be specific to
16 construction. And as a part of that process,
17 we'll also address the multi-employer situation
18 that we have. Correct?

19 MR. BETHANCOURT: Separately. I
20 believe, Mr. Chairman it was separately. Jeremy
21 Bethancourt.

22 MR. STAFFORD: You were going to address

1 by employer?

2 MR. BETHANCOURT: The broadening of the
3 scope I thought we were going to address
4 separately, if I recall, the workgroup meeting
5 yesterday. So that it wouldn't muddy --

6 MR. STAFFORD: From this.

7 MR. BETHANCOURT: Separate from that
8 document.

9 MR. STAFFORD: Right, yes, that's right.
10 Okay.

11 MR. BETHANCOURT: Because that document
12 needs to just -- we'll look at it by itself.

13 MR. STAFFORD: Yes, we don't want to
14 muddy this up. We're dealing now with the part of
15 the process and that is the host employer that
16 gets workers from a staffing agency. That's this
17 document that we're going to work on and make it
18 construction-specific. I don't know in the end if
19 this is a best practice document, an OSHA guidance
20 document, what it is.

21 MR. MARRERO: It's a best practice
22 document.

1 MR. STAFFORD: Okay, so that's what
2 we'll be working on.

3 And the second question, and this is I
4 think more for OSHA staff, is we've had this issue
5 before of running up against -- and I'm going to
6 lean on Lisa here a little bit -- the FACA issues
7 of having workgroup meetings in between formal
8 face-to-face meetings. And it's clear that the
9 NACOSH has been able to -- their Temporary Worker
10 Workgroup has been meeting monthly in between
11 meetings. So I am assuming that what's good for
12 the goose is good for the gander, and that our
13 workgroup can have monthly conference calls,
14 meetings, whatever they would like to do to flesh
15 this document out.

16 So is that a yea or a nay?

17 MR. MCKENZIE: Yea.

18 MR. STAFFORD: Okay, good.

19 MR. MCKENZIE: The caveat here is the
20 workgroup can meet. The Committee as a whole
21 cannot meet on the phone because the Committee has
22 to be a public meeting. The workgroup can meet

1 all you want.

2 MR. STAFFORD: Okay, so I guess that
3 means then essentially that the workgroup, the
4 folks that are assigned to the workgroup, are the
5 ones that will meet and the full ACCSH, even
6 though all 15 of us may be interested in this
7 issue, we cannot participate in these monthly
8 calls because hence it would become a full ACCSH
9 meeting. Correct?

10 MR. BETHANCOURT: Right.

11 MR. STAFFORD: All right. So your
12 workgroup, Jeremy and Tom, has the ability it
13 sounds like to have your calls or do whatever you
14 would like to do monthly in between the meetings.

15 MR. BETHANCOURT: Yes. Mr. Chairman, at
16 least have that tentatively set up where Tom and I
17 will discuss do we have something this month that
18 we can move forward on? All right, let's do that.
19 Let's schedule the meeting.

20 Is there a number of ACCSH members who
21 can or cannot be included in those --

22 MR. MCKENZIE: Quorum.

1 MR. BETHANCOURT: Quorum.

2 DR. BRANCHE: A quorum is how much?

3 MR. BETHANCOURT: Less than a quorum.

4 MR. MCKENZIE: Eight.

5 MR. BETHANCOURT: So less than eight.

6 MR. STAFFORD: Less than eight.

7 MR. BETHANCOURT: There we go. So the
8 first seven and that's it.

9 MR. STAFFORD: all right. So then in
10 terms of -- and I know this is getting in the
11 weeds a little bit, is the OSHA staff helping this
12 process?

13 MR. BETHANCOURT: Yes.

14 MR. STAFFORD: They'll set-up the call-
15 in numbers coordinate, do the announcements of the
16 meetings, all of that?

17 MR. MCKENZIE: Typically in the past
18 what we have done is members -- public
19 participants that have come to the workgroup
20 meetings and signed in on the meeting will get an
21 email when we're going to have the meeting. And if
22 people are interested, they are going to that

1 workgroup meeting and they sign up and we send
2 them. We've done them for a number of workgroups.
3 We've held a number of inter- ACCSH meeting
4 workgroup meetings. It's not a new thing.

5 MR. CANNON: Kevin Cannon. And for the
6 ACCSH Temporary Worker, you guys issued a trade
7 release identifying the dates and times that they
8 were meeting to allow others that want to
9 participate in that meeting.

10 MR. STAFFORD: Yes, I don't think it was
11 in the Federal Register.

12 MR. CANNON: It was a trade release.

13 MR. STAFFORD: It was actually posted on
14 the OSHA website, that the meetings were going to
15 happen, and I assume that would apply here. So
16 that answers that question, Tom and Jerry or Jerry
17 and Tom, that --

18 MR. BETHANCOURT: Jeremy, not Jerry.

19 (Laughter.)

20 MR. STAFFORD: That we could have these
21 meetings and then work through Damon initially to
22 set up the first call. Damon, help out on the

1 first call of this group. And so the order of
2 business then is two things it sounds like for
3 your workgroup is to continue to work on this
4 document to make it applicable to construction.

5 And then the second issue is the bigger
6 slice and this is the issue of how we expand
7 beyond the staffing agencies that deal with day
8 laborers and independent contractors, et cetera,
9 whatever we're calling these people.

10 MR. BETHANCOURT: Yes, I would say that
11 it's it. And to Dean's point, whatever the slice
12 is and in incremental steps in line with what
13 NACOSH is able to do, as well, just to be clear.

14 MR. STAFFORD: Okay, sounds good. Kevin
15 and then Jerry.

16 MR. CANNON: Yeah, I just have a
17 question for Tom and Jeremy. I mean, you know,
18 you're working on -- well, NACOSH now, it sounds
19 like you guys want to start working on a separate
20 document. And I guess I'm kind of confused as to
21 what you intend to accomplish that the recently
22 revised Safety and Health Management Program

1 guidelines do not as it relates to multi-employer
2 worksites because, as we heard today, there is a
3 section specifically for that type of work
4 environment.

5 MR. BETHANCOURT: I think one of the
6 things that -- I'll let you go, Tom. Jeremy
7 Bethancourt. One of the things that we did
8 discuss yesterday was actually to review this
9 document to ensure that that's part of the comment
10 that would be made. And so I guess one of the
11 things that we're asking of the ACCSH members
12 separately from the workgroup meeting is to look
13 at that document, as well, and see what things you
14 find in there. Because understand, the initial --
15 and Tom's going to speak to this far better than I
16 can, so I'm going to shut up in a second. But
17 this draft document that NACOSH put together, they
18 put together before OSHA had finished their
19 Request for Information.

20 And, Tom, I'll shut up now.

21 MR. MARRERO: You're correct.

22 MR. STAFFORD: So I guess that means

1 you're going to speak now, Tom.

2 MR. MARRERO: Tom Marrero, Employer Rep.
3 The document that we were looking at providing or
4 drafting was something similar to what the NAHB
5 had provided to the workgroup yesterday. It was
6 an insurance company type of handout and so forth.

7 MR. CANNON: It doesn't involve -- it's
8 multi-employers. Theirs is more of an
9 orientation-type document.

10 MR. MARRERO: Correct, but it would
11 target those types of relationships and how to
12 handle those types of relationships. It would
13 just be specifically, you know, safety based. They
14 would be the relationships and safety- related.

15 MR. BETHANCOURT: From an employer's
16 perspective.

17 MR. CANNON: And, again, I guess if you
18 look at page 23, Coordination and Communication on
19 Multi-Employer Worksites, in the Safety and Health
20 Management Program Guidelines, and it specifically
21 calls out, "Before the start of any work onsite
22 the host employer and contractor, subcontractor,

1 or temporary staffing agency established their
2 respective safety and health responsibilities and
3 obligations." So it seems like this is moving in
4 the direction to address that problem.

5 MR. STAFFORD: Yes, that's the hook. I
6 mean, that's what we talked about yesterday, that
7 simultaneously OSHA's asked for public comment on
8 their revised guidelines to the program standard,
9 which are due on February 15th and in that
10 guideline to address this issue. And so a part of
11 what this workgroup is doing here potentially
12 would be fed into the guidelines. Does that make
13 sense?

14 MR. CANNON: So I guess, in essence, the
15 workgroup would be submitting comments to OSHA on
16 their requests or per their request. Okay.

17 MR. STAFFORD: I don't get wink and nods
18 now, so you're going to have to tell me.

19 MR. CANNON: Dean told me no, that was
20 wrong.

21 MR. MCKENZIE: Workgroups talk to the
22 Committee. The Committee talks to OSHA.

1 MR. BETHANCOURT: Anybody can do
2 independently whatever it is that they're going to
3 do, but they can't speak for the Committee.

4 MR. STAFFORD: Correct. Okay, any other
5 questions or comments?

6 MR. RIVERA: That answered my questions.
7 I had a question relating to safety, how that was
8 going to integrate into the Safety and Health
9 Management Guidelines. This is Jerry Rivera,
10 Employer Rep.

11 MR. STAFFORD: Okay. I think it's an
12 important area where this is addressed because I
13 think that's going to have a lot of traction as we
14 discussed yesterday. And what we come up with in
15 terms of recommendations on how to deal with this
16 issues, it's appropriate that we look at that as a
17 mechanism to carry that.

18 MR. BETHANCOURT: And, Mr. Chairman, one
19 of the things that we -- Tom and I attended the
20 NACOSH meetings yesterday, the workgroup meetings,
21 and we watched the changes and the modifications
22 that they were making towards this original draft

1 that they had. And it very much expanded some of
2 the explanations, I believe, that are going to be
3 addressed in OSHA's document. So I think that's
4 what it's going to simply do, is complement and
5 suggest where some improvements could be made.

6 MR. STAFFORD: Thanks. Cindy?

7 MS. DePRATER: Cindy DePrater, Employer
8 Rep. I almost feel like that we're going to end
9 up with three documents that overlap and it
10 doesn't make sense that people are going to have
11 to go to three different documents, even though
12 they're guidelines, recommendations, to figure out
13 what they need to do. Why can't we streamline
14 this?

15 MR. STAFFORD: Go ahead, Jerry.

16 MR. RIVERA: Jerry Rivera, Employer Rep.
17 I guess following on Cindy's remarks, I mean, even
18 one of the layer -- I know we're planning on
19 expanding this to other groups, so even that's
20 going to change even further down the road, so
21 these suggestions will alter the guidelines,
22 although they're treated differently, but we don't

1 have a definition of who this is going to apply
2 to, whether it's just temp workers or others. So
3 I guess I'm kind of confused on that and how
4 that's going to intertwine.

5 I agree, we should address some of these
6 things as guidance documents, but it seems like
7 we're working from multiple angles. And you guys
8 are doing the right thing, meeting with NACOSH,
9 but there's apparently other efforts, as well,
10 that are going on that's going to muddy up the
11 water or muddy up the effort. So that's just what
12 I'm trying to comprehend on that end.

13 MR. STAFFORD: Well, it's hard to
14 unmuddy waters that are muddy, right? So this is
15 a pretty muddied issue and so we have the options
16 here. We have a document that looks like is an
17 excellent document that the NACOSH Committee's
18 already started putting together. And so the task
19 was, since no one's really had a time to look at
20 this since this was just handed to us yesterday,
21 that the workgroup look at this document and see
22 if it fits construction or, if not, how we modify

1 it.

2 Now, we could muddy this document and in
3 the same document start talking about how you
4 manage day laborers, how you manage "Labor Pimps"
5 as you call it, how you deal with
6 misclassification and employees get classified as
7 independent contractors, but that seems like
8 that's really going to start getting muddy.
9 Correct?

10 MR. BETHANCOURT: Correct, and we did
11 not want to do that.

12 MR. STAFFORD: Right.

13 MR. BETHANCOURT: Which is why we
14 decided yesterday we're going to do this as a
15 separate part to make sure that we don't muddy
16 that up even more than it is right now apparently.

17 MR. STAFFORD: So I guess, Cindy, that's
18 the answer to your question. I mean, I don't know
19 how we can have one document that addresses all of
20 these different things.

21 MS. DePRATER: I guess my -- Cindy
22 DePrater, Employer Rep. My fear is that we're

1 going to maintaining overlapping language in three
2 different documents and there's not going to be
3 one of them that pyramids to control another. So,
4 again, I think we're creating confusing
5 information for these small contractors. Maybe
6 I'm wrong, Jeremy, you're shaking your head, but
7 that's the way I see it right now. And they're
8 all excellent documents, I need to add that.
9 They're all excellent documents, but we need to
10 figure out how they're going to be presented to
11 the general public.

12 MR. STAFFORD: Okay, all right. Well,
13 we appreciate that, Cindy. Dean?

14 MR. MCKENZIE: Dean McKenzie, OSHA. I
15 think there's a high likelihood that these
16 documents will inform OSHA and our folks on the
17 guidance documents that we've already published
18 and tweaking them. So, in large part, these
19 documents are guidance for us and information for
20 us. So, you know, I don't see these documents,
21 while they will be in the record, you know, we're
22 not going to put an OSHA stamp on the NACOSH

1 document and publish it. These are taking the
2 industry experts, that we all consider you folks
3 to be, giving us guidance to address our existing
4 documents and future document that we are creating
5 for the Temporary Worker Initiative.

6 MR. BETHANCOURT: Mr. Chairman. Thank
7 you, Dean. I was clearly not saying it as well as
8 you just did.

9 MR. MCKENZIE: Shucks.

10 MR. BETHANCOURT: That's exactly what
11 our intent is, is to give you guidance on the
12 things that we're concerned about and then you'll
13 include that in whatever it is that you end up
14 with. Does that make sense now?

15 MS. DePRATER: It does.

16 MR. CANNON: Yes.

17 MR. STAFFORD: Tom, you got it? Okay.
18 Any other questions or comments?

19 Okay, so just to recap real quick. So
20 you are going to follow up with Damon and you're
21 going to start the process of having monthly
22 calls. And it's going to start with the folks

1 that were in the workgroup meeting yesterday, Rob
2 and Tom and the other homebuilder representatives
3 that were there. We can have up to seven ACCSH
4 members participate if they wish and the first
5 line of business is to take the NACOSH document,
6 review it, and see how it applies to construction
7 and how it needs to be modified.

8 At some point, when you get that done,
9 the next step is to take the next layer down and
10 start trying to define these other temporary
11 workers that are coming out to our job sites that
12 are not coming through formal staffing agencies.
13 Correct?

14 MR. BETHANCOURT: Correct. And the
15 thought is that we'll be able to come to ACCSH,
16 and so we'll do that work in between meetings and
17 then come to ACCSH with things to discuss.

18 MR. STAFFORD: Right. Okay, what
19 happens, how this document -- because this is a
20 document, clearly, that NACOSH has taken the
21 position before OSHA even came out and asked for
22 comments on their program standard guidelines,

1 that they're building this -- their intent was to
2 build this in as a part of an I2P2 program. So
3 what comes out of that or when OSHA has their
4 public meeting on December 9th and what people
5 think about that and how that feeds in, but I
6 would imagine this would be a document that's in
7 the document that the Agency's going to look at
8 before we get a chance to modify it.

9 So can I have a motion to accept the
10 workgroup's report?

11 MR. CANNON: So moved.

12 MR. STAFFORD: Second?

13 DR. BRANCHE: Second.

14 MR. STAFFORD: All right, thank you.

15 Christine second. Any other discussion? All
16 those in favor signify by saying aye.

17 (Chorus of ayes.)

18 MR. STAFFORD: Any opposed?

19 (No response.)

20 MR. STAFFORD: Thank you. Next

21 workgroup report is -- sorry, please.

22 MS. WILSON: Who seconded that motion?

1 MR. STAFFORD: Christine Branche.

2 MS. WILSON: Thank you.

3 MR. STAFFORD: Training and Outreach

4 Workgroup, is that you, Kevin? Oh, no, Roger.

5 Okay, thanks, Roger.

6 MR. ERICKSON: Roger Erickson,

7 Boilermakers, Employee Rep. The Training and

8 Outreach Group consists of Co-Chairs Kevin Cannon,

9 Jerry Rivera, Palmer Hickman, and myself.

10 The Training and Outreach Workgroup

11 meeting began with the introduction of Ken Koroll,

12 Director of the Office of Construction Safety

13 Training at the Office of Training and

14 Education. After Mr. Koroll's

15 introduction, the workgroup revisited two

16 longstanding agenda items: one, the Intro to OSHA

17 module in both the 10 and 30 hour, and also the

18 OSHA 502 update.

19 It was reported by Mr. Koroll that a

20 revised module was issued to pilot with a handful

21 of Ed centers regarding the Intro to OSHA. The

22 module remains at two hours. As you recall, the

1 recommendation had been to reduce that to one
2 hour. Like I said, the module remains at two
3 hours. However, the module now contains 8
4 handouts versus 12 handouts in the previous
5 version. The revised module also resulted in a
6 reduction of slides from 48 to 36. The module now
7 takes an average of 1 hour and 45 minutes. The
8 workgroup co-chairs and public participants again
9 voiced that the two-hour mandate takes away from
10 time that could be spent on construction hazards
11 and not so much on the history and background of
12 OSHA.

13 The next topic of discussion was on the
14 502 update. Meeting participants provided
15 suggestions as to how the 502 course could be
16 modified to meet the stated goals of the course
17 while also provided value to the program and
18 students. Mr. Koroll stated that he would meet
19 with the DTE leadership to discuss the workgroup
20 concerns and comments.

21 The last topic of discussion was the
22 foundations of safety leadership. Dr. Linda

1 Goldenhar with the Center to Protect Workers
2 Rights, CPWR, conducted a presentation on the
3 status of the module, which is intended to be
4 incorporated as an elective in the OSHA 30- hour
5 training. The module is 2-1/2 hours in length and
6 covers key leadership characteristics. The module
7 is currently being piloted and should be finalized
8 by January of 2016.

9 The remaining work involves finalizing
10 the videos included in the program. After Dr.
11 Goldenhar's presentation, Mr. Koroll provided
12 insights into where the DTE stands with adopting
13 or incorporating the module into the OSHA 30-hour.
14 Before DTE will consider incorporation, the final
15 product will need to undergo evaluation. The
16 evaluation will consist of a review of the stated
17 objectives, program content, and the constructor's
18 guide, among others.

19 As a result of the above discussions,
20 the following recommendations were made. First, we
21 recommend that OSHA DTE report back on the
22 previous recommendations put forward regarding the

1 Intro to OSHA module and the 502 course.

2 There's also a recommendation that the
3 Training and Outreach Workgroup hold conference
4 calls with the DTE staff between meetings.

5 Other recommendations was the DTE begin
6 their review and evaluation process immediately
7 upon program finalization. And we recommend to
8 OSHA that the foundations of the Safety Leadership
9 module be incorporated as an elective into the
10 OSHA 30-hour course.

11 That concludes my report.

12 MR. STAFFORD: Thank you, Roger. Any
13 questions or comments?

14 MR. RANK: I have one, Pete.

15 MR. STAFFORD: Steve.

16 MR. RANK: Steve Rank, Employee
17 Representative. I was also in that meeting with
18 Roger and the others, and one of the items that we
19 also agreed to is we need a timeline that when
20 this is sent back to the Agency, they expressed
21 that they had some personnel changes in the
22 training offices, and we understand, but I know

1 that a formal motion's going to be made and we
2 want to make sure that there's a timeline of
3 response time so that we're not here a year later
4 looking for the very same outcome and response.
5 So I'd like to also add that we have put in that a
6 reasonable time factor of this work to be
7 completed and sent back to the Committee.

8 MR. STAFFORD: Okay, thank you, Steve.
9 Any other questions or comments?

10 (No response.)

11 MR. STAFFORD: Okay. Well, I think
12 we're on the record in terms of -- and we've beat
13 the drum loud and clear in terms of getting the
14 Director of Training to participate with us and,
15 hopefully, that will happen.

16 We've also been on the record through
17 this Committee and a formal motion about -- or the
18 Committee's recommendation that this 2- 1/2-hour
19 new module be made an elective of the OSHA 30.
20 And so that's not new. I'm trying to figure out
21 if we need a motion or not here in terms of the
22 timing of the evaluation because, to be quite

1 frank with you, I'm not quite sure what that's
2 going to do for us. Because I'm hoping, in the
3 end, that the evaluation is a part of the research
4 project, which the Office of Training or DTE, I
5 always get all the acronyms mixed up, DTE is
6 already a part of. So I'm trying to think about
7 while I'm talking here whether we want to make a
8 motion that there be a certain time constraint on
9 how long it takes the DTE to evaluate something
10 that they're already a part of and the evaluation
11 is a part of the research.

12 And I'm starting now that I'm thinking
13 about it not so sure that we want to do that. And
14 I'm open for discussion about that, but I think in
15 the end, again, we've gone a long way down the
16 road of being sure that both the Directorate of
17 Construction and the DTE folks are involved in
18 this project from the beginning, and that's why
19 both of these offices are on the Curriculum
20 Development team.

21 And so it's very, I think, I don't know
22 if frustrating is the right word. So it's

1 confusing to me that an organization that's a part
2 of the development is involved in the research as
3 we evaluate the pilots and modify and is involved
4 in looking at the intervention research when it's
5 actually out there, that we have to again have an
6 evaluation process at the end of that because
7 they're really a part of the evaluation process
8 throughout the research project.

9 And so I think I'm going to stick with
10 that. Maybe we need a motion that there is no
11 separate evaluation at the end because DTE is
12 involved in the research project from the
13 beginning. And so I would like your opinions on
14 that. I'm going to go to Palmer first and then to
15 Jerry.

16 MR. HICKMAN: Thank you, Pete. I think
17 an outcome of yesterday's meeting with the
18 workgroup was lack of communication, at least I
19 think we boiled it down to that. I think maybe a
20 motion that includes that we expect a response
21 back in a reasonable amount of time. I don't
22 think there's been a response.

1 We made a recommendation that the
2 Introduction to OSHA be reduced to one hour and we
3 made a recommendation about the 502 and now we're
4 making a recommendation about this leadership
5 course. As I understand it, we never got a
6 response back. I think that's really what we're
7 looking for, is a conversation. Maybe they didn't
8 know that we expected a response back. Maybe they
9 just said, okay, thank you for sending this.
10 Maybe out loud, but not to us, so there was never
11 any real acknowledgement.

12 And I think there was some confusion if
13 they even had received some of it. I know there's
14 been some change in leadership over there in
15 different departments and organizations, so I
16 think the motion should include that we would like
17 a response within a reasonable amount of time
18 because that's what I think we haven't been
19 getting through ACCSH was a response back from
20 DTE.

21 MR. STAFFORD: Okay, who else? I'm
22 sorry, before I go on. Jerry?

1 MR. RIVERA: Yes, Jerry Rivera, Employer
2 Rep. I guess what I remember from yesterday's
3 discussion, as well, that we kind of agreed that
4 maybe it would be in the best interest of the
5 Committee to have a conference call with staff
6 from the DTE to kind of gather that feedback on
7 their initial response from our recommendations as
8 it relates to Intro to OSHA, the 502, and the
9 Safety Leadership. So maybe that could be a
10 motion, not a timeline, but to establish a
11 conference call with a subgroup and DTE staff to
12 gather that feedback and bring it back to the
13 Committee. That way we don't wait till our next
14 face-to-face.

15 MR. STAFFORD: Okay. Steve Hawkins, do
16 you have --

17 MR. HAWKINS: No.

18 MR. STAFFORD: Someone over here. Was
19 it you, Kevin?

20 MR. CANNON: I was just going to say
21 that you brought that up to Ken yesterday that
22 DOC, DTE have been part of the development and

1 evaluation of the program, but I thought I heard
2 from Ken that even with their participation there
3 would still need to be a separate evaluation
4 conducted by DTE and that was the reason for that
5 particular recommendation. And I don't know if we
6 can call Ken up here.

7 MR. STAFFORD: I can call Ken up here,
8 but I'm not sure what the purpose is because I'm
9 really struggling with what we're doing. I mean,
10 we make a motion that we -- the motion is that we
11 have a representative of DTE in every one of our
12 Training and Outreach workgroups and, as a part of
13 that, we have a response from DTE about the work
14 that the workgroup is doing and just leave it at
15 that. I'm not sure we need a motion that we are
16 going to have a call with Ken or whoever else at
17 DTE.

18 And I'm sorry I'm struggling here
19 because the whole thing is kind of confounding to
20 me really that we have an Agency involved as a
21 partner and then they're going to do their own
22 separate evaluation five years from now when the

1 smoke clears. It just doesn't make sense to me.

2 Christine and then Steve.

3 DR. BRANCHE: I was simply going to
4 actually herald what you said about having someone
5 from DTE or whatever is the alphabet - - I'm
6 sorry, Christine Branche, NIOSH -- involved
7 because I think that communication issue that
8 Palmer referred to and being very clear about
9 expectations and some accountability would be, in
10 part, satisfied by having someone from, what is
11 it, DTE involved in the workgroup's deliberations.
12 I think that makes a lot of sense, whatever it is.

13 MR. STAFFORD: All right. Steve, did
14 you have something?

15 MR. RANK: Yes. Steve Rank, Employee
16 Representative. Pete, just to try to prevent any
17 kind of lack of institutional memory because of
18 some changes in staff that was presented yesterday
19 during the meeting, maybe just a short couple
20 points that, in fact, this whole project was gone
21 into as a partnership, as you said. Okay? And
22 just to reiterate that there wasn't any

1 expectation that they would be looked at, like you
2 said a minute ago, from a five-year perspective,
3 that you went into that with the assumption that
4 this project would be a joint effort and it'd be
5 out.

6 And I think, you know, that maybe could
7 be stipulated very, very short and concise so that
8 any new staff that's come in could understand that
9 this is something that's not new, it's something
10 that was done previously when you laid the
11 groundwork for this project. So in case there's
12 any kind of misunderstandings from the shifting of
13 the guard, I just want to make sure that whoever
14 communicates with them in whatever form the
15 Committee says that should be taken, that there be
16 an understanding on what the expectations were,
17 that's all.

18 MR. STAFFORD: Okay. No, I appreciate
19 that. Don?

20 MR. PRATT: Yes, real quick, Don Pratt,
21 Employer. Pete, you said it very well. I mean, I
22 think we've got it on the record. I don't think

1 we need to dwell on it anymore. I think it's on
2 the record and we don't need a motion, I agree.
3 So I think we're done.

4 MR. STAFFORD: You good? Everyone fine
5 with that? I mean, we don't need to take a
6 separate motion then. I think there's no reason
7 why, just like we did with the previous workgroup,
8 that Kevin and Roger and everyone else on this
9 workgroup cannot have a call in between meetings
10 to have a chat with Ken or anyone else that's
11 identified that's going to be the contact. So
12 let's just leave it at that.

13 I'm tempted to make a motion. Sorry,
14 Don. The motion is that this Committee recommends
15 that DTE or one of its subsidiary organizations
16 has a representative at every one of this
17 Committee's Training and Outreach Workgroups and
18 as a part of that this Committee deserves a
19 response about what it is the DTE is going to do
20 with the recommendations that this Committee
21 makes.

22 DR. BRANCHE: Second.

1 MR. STAFFORD: All right, a motion was
2 made and seconded. Is there any further
3 discussion?

4 MS. DePRATER: Yes. Cindy DePrater,
5 Employer Rep. I think you also have to add to the
6 motion that they have the authority to make
7 decisions within the group. Because if they have
8 to take it back, we're going to end up in this
9 circle again.

10 MR. STAFFORD: All right.

11 MS. WILSON: No, I'm sorry, the rule of
12 workgroups is to recommend things to the
13 Committee. I mean, the workgroup can come to
14 decisions about what things would be best and then
15 bring those recommendations back to the Committee,
16 but the workgroup can't make decisions with OSHA
17 or make any recommendations to OSHA.

18 MS. DePRATER: And I think I'm referring
19 more to the DTE person that attends the meeting.
20 Does that make a difference?

21 MS. WILSON: You're asking for a certain
22 level of authority and the DTE person that

1 attends?

2 MS. DePRATER: Yes, yes.

3 MS. WILSON: You can include that in a
4 motion, if you would like.

5 DR. BRANCHE: But the DTE person has
6 authority.

7 MR. STAFFORD: Pardon me?

8 MS. WILSON: Okay.

9 DR. BRANCHE: Christine Branche, NIOSH.
10 The DTE person has authority. So if they --

11 MS. DePRATER: Then why are we
12 struggling with --

13 DR. BRANCHE: I think it's a
14 communication thing, as Palmer said from the very
15 beginning.

16 MS. DePRATER: Okay.

17 MR. STAFFORD: Yes, Jerry.

18 MR. RIVERA: Yes, this is Jerry Rivera,
19 Employer Rep. I think the confusion with what
20 Cindy mentions has merit and that is that we heard
21 yesterday from Ken, but we quickly found out that
22 it was just more of sending a body to report or

1 gather input to take back. So there's a filter
2 and that's just adding more layers to the
3 confusion. So I guess to Cindy's remarks,
4 somebody who does have the authority to kind of
5 come back and say, okay, this is department, OTPA,
6 the DTE, whichever has the jurisdiction over the
7 components that we're trying to alter to be there.
8 Because, at the end of the day, I think where the
9 subgroup is at is at this stage tell us yea, nay,
10 and we'll move on. But we just need a solid
11 response that we're in support, we took the
12 recommendations and they're welcomed, and we're
13 going to make these adjustments or, no, we're
14 going to go another direction.

15 MR. STAFFORD: No, I get that and I
16 appreciate that. And I would like that, too, but
17 in a lot of our organizations the person that
18 really ultimately has the authority would be David
19 Michaels in some way if we're recommending
20 significant policy change. Right? So we could say
21 that we want someone from DTE with authority and
22 that potentially could mean the person that the

1 decision-makers were saying we need David Michaels
2 at our workgroup meeting, correct?

3 MR. RIVERA: That might be the case.

4 MR. STAFFORD: Then frame up the motion.
5 The motion was that we, the full ACCSH, recommends
6 that a representative with responsibility, with
7 authority -- we could say with authority, I guess
8 -- participate in all of the Training and Outreach
9 Workgroup meetings and that will respond to the
10 deliberations and the recommendation -- or
11 deliberations and activities the workgroup
12 discusses. How's that? I mean, someone else
13 could say -- you know, come up with a motion.

14 DR. BRANCHE: It sounds good.

15 MS. WILSON: I'm sorry --

16 MS. DePRATER: I will second the motion.
17 Cindy DePrater.

18 MR. STAFFORD: I don't even know what
19 the hell it is anymore.

20 MS. WILSON: Yes, I could use a little
21 help with the motion. The ACCSH recommends that a
22 DTE representative with authority be at every one

1 of the workgroup's meetings and will respond?

2 MS. DePRATER: In a timely manner.

3 MS. WILSON: To the working group's --

4 MR. STAFFORD: Discussions.

5 MS. DePRATER: Discussions and

6 recommendations.

7 MR. McKENZIE: Pete?

8 MR. STAFFORD: Yes, Dean?

9 MR. McKENZIE: If I may, Dean McKenzie
10 with OSHA. That was what Ken is here for. We
11 have not had a consistent DTE representative in
12 the workgroup meetings. This was his first
13 meeting. He intends to attend these meetings and
14 that is his goal to do that and provide this. The
15 limits of his authority are not much different
16 than the limits of my authority. We all answer to
17 Dr. Michaels. And unless we have Dr. Michaels
18 sitting in the room -- and, frankly, you're not
19 going to have final authority often with him in
20 the room because he's going to bounce it off of
21 his and executives that he has.

22 So, you know, we're making a major step

1 toward improving this communication and the
2 continuity of it with having Ken attend the
3 meetings now.

4 MR. STAFFORD: Okay, fair enough. I
5 still want the motion. It may not carry, but I
6 want this on the record that we, after all this
7 time, want someone here.

8 MR. PRATT: Point of order. Don Pratt
9 representing employers. Lisa, don't we have a
10 motion on the table right now?

11 MS. WILSON: Amended.

12 MR. PRATT: Well, the second didn't --
13 the same second didn't amend it, so.

14 DR. BRANCHE: Okay, this first second
15 amends the second -- I mean, the second the
16 second's amendment. I mean, whatever.

17 MR. PRATT: Okay, Christine is agreeing
18 to the revised motion.

19 DR. BRANCHE: Yes.

20 MR. PRATT: Okay, just so it's clear on
21 the record.

22 DR. BRANCHE: Thank you, Don.

1 MR. STAFFORD: All right, so let's move
2 on here. So please, Lisa, read the motion one
3 more time and then we're going to move on to the
4 next report.

5 MS. WILSON: A motion that ACCSH
6 recommend that a DTE representative with authority
7 be a part of every meeting of the working group
8 and will respond to the working group in a timely
9 manner on the working group's discussions and
10 recommendations.

11 MR. STAFFORD: So we have a motion, we
12 have a second. Is there any more discussion? All
13 those in favor signify by saying aye.

14 (Chorus of ayes.)

15 MR. STAFFORD: Any opposed?

16 (No response.)

17 MR. STAFFORD: Okay, thank you. Health
18 Hazards, Emerging Issues and Prevention Through
19 Design Workgroup. Is that Steve or Christine?
20 Christine.

21 DR. BRANCHE: Dr. Christine Branche,
22 NIOSH, Federal Rep. Mr. Chair and colleagues, I

1 will try to keep this concise, but we did talk
2 about a number of things. The workgroup discussed
3 four major topics, but only two of them seem to
4 emerge for recommendations, so please bear with me
5 as I go through this.

6 As it concerns the potential for
7 Construction for Health -- sorry, Construction
8 Focus for Health that will be modeled in part on
9 Construction Focus for Safety, we benefited from
10 information from Mr. Scott Schneider of the
11 Laborers, who told us about a proposal that's
12 going through AIHA at the moment, where the four
13 topics -- temperature extremes, respiratory
14 hazards, musculoskeletal issues, and noise -- are
15 being considered for a large- scale endorsement,
16 if you will. We recommend that this effort -- let
17 me back up again.

18 So these topics are broadly defined and
19 can be expanded and collapsed as occasion serves.
20 They're driven in part by data and -- for the most
21 part and can draw a wide network of support. They
22 can also include hierarchy of controls, training,

1 and personal protective equipment. They can also
2 be affected by prevention through or depending
3 upon which prepositional phrase you prefer
4 prevention by design.

5 Such an effort can also mention and
6 address safety, health, and management systems
7 guidelines, and we can also benefit, as well, from
8 any social marketing information that could help
9 us in shaping what we suggest be an emphasis on
10 aware at this time.

11 So our recommendation is that OSHA
12 consider supporting this AIHA effort as AIHA
13 considers the proposal that's now before their
14 board as a Construction Focus for Health. The
15 topics under consideration, as I said, are
16 temperature extremes, respiratory hazards,
17 musculoskeletal illnesses, and noise. Furthermore,
18 we recommend that the effort begin with an
19 emphasis on awareness across the country, and that
20 is the recommendation for that one.

21 Shall I continue? Okay. In the
22 documents that were distributed, you see that

1 there is a layout, a one-page layout, of a noise
2 app proposal and then a scientific journal
3 article, "Preventing Hearing Loss in
4 Construction in the USA: Challenges and
5 Opportunities." The article was written by Mr.
6 Schneider, Scott Schneider, from the Laborers, and
7 the proposal that's laid out is also from him.

8 Now, OSHA is in a position to encourage
9 external entities to develop such an app using
10 information compiled by OSHA, NIOSH, and others.
11 And so our recommendation for this one is that
12 OSHA consider packaging elements as suggested by
13 Mr. Schneider into one app. Again, we're not
14 suggesting necessarily that the Agency take on the
15 development of the app, but certainly of compiling
16 the information.

17 Two other issues that the Committee
18 discussed, but we're not suggesting
19 recommendations at this time, have to do with --
20 and it's another item that was submitted in the
21 package that I've distributed to the Committee,
22 rather to ACCSH, also from Mr. Schneider again.

1 Thank you, Mr. Schneider.

2 The OSHA Construction Prevention Through
3 Design web page outline is something that we still
4 have to discuss in light of some other information
5 that's become available and some other
6 opportunities that have become available. But
7 because it was submitted to us and we did discuss
8 it, I wanted you to have it. We're not suggesting
9 a recommendation on that particular item at this
10 time.

11 And then lastly, what we will discuss at
12 a future meeting is rescue on construction sites.
13 This is not generated only by the Confined Space
14 Rule. There are other needs and circumstances
15 through which rescue needs to be considered and we
16 want to take this up for more deliberate
17 consideration at a later meeting.

18 So the two recommendations stand before
19 you, Mr. Chair.

20 MR. STAFFORD: Okay, thanks. Steve, do
21 you have anything to add or any comments or
22 questions?

1 MR. HAWKINS: No, I think Dr. Branche
2 did a great job summing up our meeting. And I
3 don't know, are these formal recommendations at
4 this time? We're not going to make a motion,
5 right?

6 DR. BRANCHE: They're recommendations. I
7 don't think we're making formal motions.

8 MR. STAFFORD: No.

9 MR. HAWKINS: Yes, just recommendations.

10 DR. BRANCHE: Unless there's some in the
11 discussion people want it to be.

12 MR. STAFFORD: No, I think if there's no
13 more discussion on the report itself, the motion
14 would be to accept the workgroup's report and
15 those recommendations would be on the record that
16 we accept those recommendations.

17 MR. HAWKINS: Okay.

18 DR. BRANCHE: If I can, Mr. Chair. I
19 expect that especially as it concerns the
20 Construction Focus for Health, by the time we get
21 to our next ACCSH meeting there will be some
22 developments underway from NIOSH as well as from

1 AIHA that will allow us to have a more formulated
2 recommendation which may manifest in a motion at
3 that time.

4 MR. STAFFORD: Okay, any other questions
5 or comments about the workgroup report?

6 (No response.)

7 MR. STAFFORD: Well, thank you, Steve
8 and Christine, and Cindy I know was a part of that
9 workgroup, as well.

10 Okay, can I have a motion to accept the
11 report?

12 MR. BETHANCOURT: Motion to accept the
13 report.

14 MR. BELTRAN: Second.

15 MR. STAFFORD: The motion's second. Any
16 further discussion? All those in favor signify by
17 saying aye.

18 (Chorus of ayes.)

19 MR. STAFFORD: Any opposed?

20 (No response.)

21 MR. STAFFORD: Yes, Lisa.

22 MS. WILSON: Mr. Chairman, I'd like

1 enter some exhibits. I'd like to designate the
2 serious injury reporting slides as Exhibit 5, the
3 Temporary Worker Workgroup report as Exhibit 6,
4 the Training and Outreach Workgroup report as
5 Exhibit 7, the materials about the foundations for
6 a Safety Leadership Program that came in through
7 that Committee as Exhibit 8, and the Health
8 Hazards Workgroup report as Exhibit 9. Thank you.

9 (Exhibits 5, 6, 7, 8, and 9 were marked
10 and admitted into the record.)

11 MR. STAFFORD: Thank you, Lisa. Okay,
12 we have about 20 minutes or so left for public
13 comment. I've got three folks that signed up to
14 do so. Mike McCullion with SMACNA, Mike, I know
15 you're here, please step up.

16 MR. McCULLION: Thank you. Good
17 morning, ladies and gentlemen. My name is Mike
18 McCullion. I'm the Director of Market Sectors and
19 Safety for SMACNA, a sheet metal contractors
20 association. I've been with SMACNA for about 13
21 years. I have over 30 years' experience in safety
22 and health; past president of the National Capital

1 Chapter of ASSE.

2 And I apologize, I probably would have
3 made this presentation yesterday at your workgroup
4 for Prevention Through Design, but I wasn't able
5 to attend. I just wanted to get this information
6 before the Committee.

7 There are really four exciting emerging
8 issues that I know you've talked about and they're
9 out there. Lean construction is a great issue.
10 Prefabrication and modularization is something
11 that maybe you could consider, as well as building
12 information modeling. I know NIOSH has done a lot
13 of work on that stuff.

14 I'd like to focus on Prevention Through
15 Design specifically. I'm chairman of a workgroup
16 for ASSE, ANSI, the A10 Committee, on a Technical
17 Report on Prevention Through Design. It's
18 entitled -- by the way, you have this in the back
19 of your book, your handouts, I believe, on the
20 very back page. The Technical Report is entitled,
21 "Prevention Through Design for Construction and
22 Demolition Safety and Health."

1 You see the scope and purpose there. And
2 I just wanted to reiterate the scope being the
3 fact it's going through the application of these
4 concepts, occupational hazards and risks can be
5 identified, avoided, reduced, and/or eliminated
6 before, during, and after a building or structure
7 is constructed, renovated, or demolished.

8 So this is the scope in the application
9 that we're proceeding with under this Technical
10 Report. A number of you are familiar with it.
11 Jerry has actually be involved with the Committee,
12 as well, with the workgroup. And I just wanted
13 to, again, get this in front of you as a notice to
14 let you know that we are working on this and we
15 may come to your workgroups in the future to get
16 some feedback.

17 I also support, as being involved with
18 this particular workgroup, support the Prevention
19 Through Design that you've been considering. I
20 think that'll be great. OSHA's website has gotten
21 so much better over the years and I think to have
22 a Prevention Through Design part of that, a web

1 page, I think will be very helpful. I know NIOSH
2 has theirs and certainly maybe the OSHA one could
3 also build on that.

4 But two things in particular with
5 Prevention Through Design in our workgroup I
6 wanted you to be aware of and, hopefully, you'll
7 address in the future is the concept of the life
8 cycle approach of PTDD. We think it's very
9 important, NIOSH, I know, does and a number of
10 other organizations. And again, just to get it
11 out there, the life cycle is very important
12 because a lot of -- when we talk about
13 construction, we have new construction, which
14 you're very familiar with, but a lot of
15 construction companies deal with the retrofit. I
16 know in the HVAC industry we do a lot of retrofit
17 work on existing buildings. It's still
18 construction in a lot of ways because it's major
19 construction often, but the -- and also the
20 maintenance of the building, that's very
21 important. So we don't forget about the fact that
22 once a building's up and going, there's still

1 construction aspects to it, and Prevention Through
2 Design can help avoid a lot of the hazards that
3 retrofit workers get into, maintenance workers get
4 into. So that's one of the main concepts that
5 we're trying to get through this paper.

6 And the second main concept to our
7 audience is really the owners, developers,
8 designers, architects, and engineers, the
9 constructors out there who are doing Prevention
10 Through Design and benefit from it, we get it, you
11 know. Large companies are doing it a lot, smaller
12 companies are starting to recognize the importance
13 of it. But I think the audience that we need to
14 try and reach for Prevention Through Design is the
15 design community.

16 Architects and engineers, they sort of
17 buy into it, some of them don't. There's some
18 liability issues that they're sort of afraid to
19 address, and that may be something that your
20 workgroup can work on in the future to get to
21 those architects and engineers, to get them to
22 believe in Prevention Through Design and the

1 benefits that come from it because that's the
2 group that it needs to start with. It needs to
3 start with the architects and engineers to put
4 those design concepts in, like parapet walls, for
5 example, the tile points for window washers. We
6 don't want window washers tying off to our HVAC
7 components on the roof. We want them tying off to
8 an actual tile point that's part of the
9 construction of the building. So the architects
10 and engineers, we think, are a very important
11 audience that we were hoping to address with our
12 paper and, hopefully, your workgroup can also
13 address, as well.

14 So we're hoping for a first draft of our
15 paper, hopefully, in 2016. We may not make the
16 June meeting of the A10 Group, but we're working
17 on it. Hopefully, come to your workgroups in the
18 future to advise and get some information from
19 you, as well. And so I welcome any ACCSH input
20 you have into the Technical Report in moving
21 forward.

22 MR. STAFFORD: Thank you very much,

1 Mike. Questions, comments? Christine and then
2 Jerry.

3 DR. BRANCHE: Christine Branche, NIOSH.
4 I would very much enjoy being able to review and
5 provide some technical comments on your report.
6 And I'm even willing to come and make a
7 presentation to your Committee. I say that
8 because we've made quite a few inroads with the
9 U.S. Green Building Council and the lead pilot
10 credit. And the notion of introducing the
11 concepts of hierarchy of controls, life cycle
12 safety, we've made quite a few inroads with that
13 audience and hence to the design community.

14 MR. McCULLION: Great. Congratulations
15 on that. I knew you got that done, that was
16 great.

17 MR. STAFFORD: Jerry, last question.

18 MR. RIVERA: Yes, it's more of a
19 comment. I definitely wanted to recommend that
20 maybe the sub-workgroup establish -- and Christine
21 mentioned it -- kind of a liaison or direct line
22 of communication with this A10 Group that's

1 working on the Technical Report because I see the
2 value of feeding off of each other. It's kind of
3 like the Safety and Health Management systems and
4 the NIOSH suggestions. We need to have that
5 intertwined communication now so we can get it
6 right moving forward.

7 So thanks, Mike, for the presentation.
8 And Christine, I think it's a great approach to
9 move forward and establish a liaison with that
10 group.

11 MR. STAFFORD: Yes, I know, I appreciate
12 it, too, Mike. I mean, I think we all see the
13 promise in this and we had talked a little bit
14 yesterday about what this group could advise OSHA
15 to do to kind of get involved and help push -- you
16 know, kick that can down the field, so a website
17 and those kinds of things are something that I
18 think are important, and we appreciate it.

19 MR. McCULLION: Great. Thank you very
20 much.

21 MR. STAFFORD: Okay, Kathy Stieler with
22 Electronic Research.

1 MS. STIELER: Good morning. My name is
2 Kathy Stieler. I'm with Electronics Research in
3 Chandler, Indiana, but I'm here today as a
4 representative of the National Association of
5 Tower Erectors, NATE. We've just passed out
6 something for you. I'm actually on the OSHA
7 Relations Committee and I'm here to state to you,
8 as you see on the first slide, that there is a
9 need for a national minimum standard for the
10 telecommunications industry.

11 NATE was established in 1995 by
12 concerned tower erection companies. NATE's been
13 working very hard to accomplish their mission
14 statements. And their mission statement
15 epitomizes their role in the industry to pursue,
16 formulate, adhere to uniform standards of safety
17 to ensure the continued wellbeing of tower
18 personnel. We also work very hard to educate the
19 general public, applicable government agencies,
20 and clients on continued progress towards safety
21 standards within our industry.

22 NATE after formation in 1995 immediately

1 began discussions with OSHA. In February of 2001,
2 we published a hoist standard. This standard was
3 revised in October of 2003. In 2004, we published
4 not only a recommended site safety practices,
5 references, and developmental material, but we
6 also published an industry best practices guide.
7 Both of these publications were developed because
8 of a 1999 ACCSH recommendation.

9 In addition, we have been working with
10 the Telecommunication Industries Association to
11 develop a gin pole use standard. This standard
12 was called originally the Structural Standards for
13 Steel Gin Poles Used for Installation of Antenna
14 and Antenna-Supporting Structures. This standard
15 was later combined with a construction standard to
16 make a new and revised standard in August of 2011.
17 The new standard was for installation, alteration,
18 and maintenance of antenna-supporting structures
19 and antennas.

20 We've worked diligently with OSHA to
21 develop compliance directives for inspection
22 procedures for work activities on communication

1 towers that involve the use of a personnel hoist.
2 This compliance directive was developed and
3 published in 1999. It was revised in 2002 and it
4 was revised as recently as 2014. We have shown
5 that access to towers by the hoist line is the
6 least hazardous access.

7 And currently, pending the resolution of
8 comments, the American National Standards
9 Institute, and ASSE, A10 Committee has an A10.48,
10 which is called the Criteria for Safety Practices
11 with the Construction, Demolition, Modification,
12 and Maintenance of Communication Structures. This
13 NATE- recommended standard is under review and we
14 expect it to be out in 2016. A10.48 is a solid
15 standard that will be efficient and effective with
16 moving tower safety forward. It currently is the
17 largest standards committee that's accredited by
18 ANSI.

19 On a side note, within this standard we
20 address worker training for rescue.

21 In closing, we need a tower standard for
22 the telecommunication industry. A10.48 is truly

1 the only guidance document for access on tall
2 towers and cluttered towers. We need something
3 because no other standard really addresses our
4 issues.

5 MR. STAFFORD: All right. Thank you,
6 Kathy. Any questions or comments? Steve?

7 MR. RANK: Yes, Steve Rank, Employer
8 Representative. I heard a very detailed
9 presentation by Ms. Stieler and her associates
10 from NATE last July here in Washington, D.C.,
11 during the ANSI Construction Standards meeting,
12 and we were quite impressed with the level of
13 detail of engineering, detail in every erection of
14 this, and what all the exposures are. And the
15 comprehensive standard that they put forth
16 summarizes and addresses all those and that's why
17 the Committee passed a vote to pursue this much-
18 needed standard to set the benchmark in tower
19 erection safety, both guide towers as well as
20 freestanding flare towers.

21 The international association that I
22 work with has looked at this and concurs with

1 their procedures and feel this the best way to
2 protect workers that do this type of work. So I
3 just wanted to commend her for her work on this
4 issue and making this forward.

5 I know that you mentioned earlier that
6 the Agency has already stated to you that they had
7 already some guidelines on this or best practices.
8 And I would recommend that the Agency work very
9 closely, Dean, with her association to incorporate
10 these type of safety procedures that are done by
11 the experts that perform this work. Thank you.

12 MR. STAFFORD: Thank you, Steve. Jerry?

13 MR. RIVERA: Thank you for the
14 presentation. I guess I'm trying to think out
15 loud here and I've been thinking for quite some
16 time, since after A10, as well, and see on the
17 workgroup, under Emerging Issues, I know it's not
18 an emerging issue for you, but I think for the
19 Committee it's something that we might want to
20 look at since we have rescue requirements in
21 construction for the subgroup. So it might be a
22 good opportunity to learn from that.

1 DR. BRANCHE: Christine Branche, NIOSH,
2 Federal Rep. You have anticipated us. We've
3 already invited Ms. Stieler to participate in our
4 deliberations on this issue.

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

6 MR. HAWKINS: One question.

7 MR. STAFFORD: Steve?

8 MR. HAWKINS: I'm just curious. Many
9 times associations come to this group or come to
10 OSHA and say, oh, we don't want a standard, we
11 have voluntary guidelines we've already agreed to.
12 I'm just curious if you can explain why you have
13 voluntary guidelines with this ANSI standard, but
14 you still want OSHA to develop a standard. That's
15 a little unusual maybe.

16 MS. STIELER: It's a little unusual, but
17 it is paramount in the eyes of OSHA that the
18 telecommunications industry has had some issues in
19 the past. And as we all know, a voluntary
20 consensus document is an expensive document for
21 people to purchase. And with the backing of OSHA
22 and a standard with OSHA, it would be much easier

1 for some of the smaller companies to be able to
2 get their hands on the document to do what needs
3 to be done. We're very proud of our work, but it
4 needs to be shared with a whole lot of people.

5 MR. HAWKINS: Thank you.

6 MR. STAFFORD: All right, thank you.
7 Kathy, thank you again.

8 MS. STIELER: Thank you.

9 MR. STAFFORD: We appreciate your time.
10 Okay, I got last on the list is Matt
11 Compher. Matt? In five minutes or less, Matt.

12 MR. COMPHER: Sure, I'll keep it short.
13 Thanks. Matt Compher, Senior Vice President of
14 PLH Group. We're a holding company that owns 13
15 contractors across North America. Pipeline/power
16 line construction is our business.

17 I wanted to come up and talk in support
18 of the reduction of the Intro to OSHA for the 10-
19 hour program. I sat in the workgroup yesterday
20 and I don't intend to get back into the passion
21 that the workgroup had. There was plenty of that
22 going around. But as an employer who trains on

1 this multiple times a week across the country it's
2 important to get out there with the hazards that
3 are faced and that our employees face. And we
4 need to keep that 10-hour on hazards, not
5 necessarily the Intro to OSHA.

6 On the 30-hour program, I think, Pete,
7 you offered up 86 percent or 76 percent, whatever
8 that number is, use this as supervisors training.
9 While maybe that wasn't the intent, that's where
10 we've evolved. Having leadership in that is so
11 important.

12 And somebody made an important point
13 yesterday in the workgroup that this will be an
14 elective. It's not a mandate. I would encourage
15 the Agency, the Committee, whatever it takes to
16 get this ball rolling. We don't need to wait five
17 years to then make a decision. Let's see if we
18 can make a decision soon.

19 MR. STAFFORD: You can take as much time
20 as you need, Matt.

21 (Laughter.)

22 MR. COMPHER: Yes, I mean, this is

1 something that has immediate impact on the health
2 and safety of American workers and I just don't
3 see holding it up. It's not an employee-employer
4 issue. Everybody's behind this. Let's make it
5 happen. I just encourage us to move forward with
6 that.

7 And then the last comment and I'll get
8 down is temporary worker is an interesting topic
9 for me. I think we really need to put some time
10 into that definition. And I agree, where we are
11 now, host employer and employee agencies, that's
12 kind of defined and I get that. But when we start
13 talking about that next slice, being a pipeline
14 contractor and you think about welders that come
15 out, whether they're union -- and we're double-
16 breasted, we have union and nonunion -- whether
17 they're union welders who come out or they're
18 nonunion welders who come out and they're only
19 there for a short amount of time and what that
20 means. And I'm sure there's other trades that are
21 very similar, but I really encourage the Committee
22 to take a look at what that temporary definition

1 means and what the repercussions of that temporary
2 worker definition is, you know, six months from
3 the time it's final or whatever. So thank you.

4 MR. STAFFORD: Okay, thank you for your
5 comments. Any questions or comments for Matt?
6 Thank you, Matt.

7 I'm sorry, go ahead, Jerry.

8 MR. RIVERA: Jerry Rivera, Employer Rep.
9 It's not necessarily a comment for Matt, but going
10 back on the leadership, one of the key things that
11 we learned that we saw in Lightning was that
12 leadership is not about a supervisor necessarily,
13 but employees' peer- to-peer learning. So, again,
14 to echo Matt's remarks, it's something that we
15 definitely need. And that expansion, you know,
16 it's a fresh perspective that I think that we need
17 to put out there sooner than later.

18 MR. STAFFORD: Okay, appreciate that.
19 Palmer?

20 MR. HICKMAN: Real quick, thank you, Mr.
21 Chairman. One thing that wasn't mentioned and I
22 was just prompted by this last discussion, when we

1 think about the two-hour Introduction to OSHA, the
2 fact that so many folks -- I know federal OSHA
3 doesn't require - - doesn't have an expiration
4 date on the card, but many general contractors,
5 host facilities, states, you know, maybe based on
6 size of the project have three-year, five-year
7 expiration dates. So a two-hour Introduction to
8 OSHA, while it's problematic by many the first
9 time you see it, certainly, seeing the same
10 information three years later when your card
11 expires in three years, I think it really speaks
12 to the need to certainly bring it down at least
13 for refresher training.

14 And there is a need for refresher
15 training, so if OSHA -- so, Ken, if you can take
16 that message back, too. There's even more of a
17 reason where people have expiration date of cards
18 where they're seeing the same information fairly
19 frequently. That makes it more problematic, as
20 well, and drives a need to reduce it to one hour.
21 Thank you.

22 MR. STAFFORD: Right, okay. Thank you,

1 Palmer.

2 MR. COMPHER: Could I have one follow-
3 up comment to Palmer? Many of our workers in
4 construction obviously are transient and they'll
5 leave me and go to another employer and get the 10
6 hour over again. So that employee is seeing that
7 10 hour multiple times.

8 MR. STAFFORD: Right. Yes, we get that.
9 Okay, thank you again.

10 Okay, folks, I think we're about ready
11 to wrap it up. Before we close I'd like to thank
12 and welcome Steve and Alex, our two Labor
13 Representatives. I don't know when we're going to
14 meet next. I know we have a few folks that may be
15 changing. I know, though, and this is the one
16 person I want to acknowledge, that Roger Erickson,
17 one our Labor Reps at the Boilermakers will be
18 retiring in February, so he will not be back with
19 us. So I'd like to acknowledge Roger.

20 (Applause.)

21 MR. STAFFORD: Jim Maddux is not here
22 and it's unfortunate. We have all of us, and me

1 personally, have really enjoyed working with Jim
2 Maddux, both in my other roles, in my role as
3 Chair of this Committee. And Jim's going to
4 definitely be missed.

5 And I did not want to miss Paul Bolon,
6 who is in the back of the room, who will also I
7 understand be retiring at the end of the year.
8 And it's been great and we appreciate your great
9 work over the years, Paul. So thank you.

10 (Applause.)

11 MR. STAFFORD: So, Lisa or Dean -- oh,
12 we have one of our members, Chuck Stribling, who
13 is out with an illness and I guess we're all
14 supposed to get together and take a picture here,
15 a get well, Chuck.

16 (Photo opportunity.)

17 MR. STAFFORD: All right. Okay, Lisa,
18 please.

19 MR. HICKMAN: Is this Exhibit 9?

20 (Laughter.)

21 MS. WILSON: And if I may, I'd like to
22 enter the ANSI Working Group document as Exhibit

1 10 and the National Association of Tower Erectors
2 document as Exhibit 11.

3 (Exhibits 10 and 11 were marked and
4 admitted into the record.)

5 MR. STAFFORD: Thank you very much.
6 Thank all of you. All of you have a safe, happy
7 holiday season. We'll talk to you soon. The
8 meeting's adjourned.

9 (Whereupon, at 11:58 a.m., the Advisory
10 Committee meeting was concluded.)

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, Christine Allen, the officer before whom the
3 foregoing deposition was taken, do hereby certify
4 that the witness whose testimony appears in the
5 foregoing deposition was duly sworn by me; that
6 the testimony of said witness was taken by me in
7 stenotype and thereafter reduced to typewriting
8 under my direction; that said deposition is a true
9 record of the testimony given by said witness;
10 that I am neither counsel for, related to, nor
11 employed by any of the parties to the action in
12 which this deposition was taken; and, further,
13 that I am not a relative or employee of any
14 counsel or attorney employed by the parties
15 hereto, nor financially or otherwise interested
16 in the outcome of this action.

17 *Christine E. Allen*



20 _____
Christine Allen
Notary Public in and for
the District of Columbia

21

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