

TRANSCRIPT OF PROCEEDINGS

IN THE MATTER OF:)
)
MEETING OF THE ADVISORY)
COMMITTEE ON CONSTRUCTION SAFETY)
AND HEALTH (ACCSH))

Pages: 1 through 98

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

IN THE MATTER OF:)
)
MEETING OF THE ADVISORY)
COMMITTEE ON CONSTRUCTION SAFETY)
AND HEALTH (ACCSH))

Room N-3437
Frances Perkins Building
200 Constitution Avenue, N.W.
Washington, D.C.

Wednesday,
November 30, 2016

The parties met, pursuant to the notice, at
1:00 p.m.

BEFORE: ERICH J. (PETE) STAFFORD, Chair

ATTENDEES:

ACCSH Members:

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OTHER ATTENDEES:

DAVID MICHAELS, Assistant Secretary of Labor
 SCOTT SCHNEIDER, LIUNA
 MICHELE MIHELIC, AWEA
 ALDEN STREALY, AGC-OREGON
 TONY BROWN, A.D. BROWN CO.
 BETH O'QUINN, SC & RA
 CHUCK KELLEY, KCMS
 DAVE REYNOLDS, Inside OSHA Newsletter
 BILL HERING, Matrix NAC
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 RODD WEBBER, PENTA
 ERIC FIDLER, Manitowoc
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OTHER ATTENDEES: (Cont'd.)

JANE TERRY, NSC
MARK CHANDLER, Kentucky Face Program
CHELSEA VETTIG, NAHB
NAJIA SHEIH, AGC of America
RON MCTUGGLE, NAHB
KIRK GRUNDAHL, NFC

COURTNEY MARR, DOC
GABOR MAYNARD, DOC

RICHARD BOZEK, EEI
CHUCK KELLY, ConEd
LOLITA OSCHA, DOC
VENETA CHATMAN, DOC
MOHAMMED AYUB, DOC
GALE MARSHALL, DOC

P R O C E E D I N G S

(1:00 p.m.)

1
2
3 CHAIRMAN STAFFORD: If you could find your
4 seat, please, I'd appreciate it. All right, folks.
5 All right. If you could take your seats, please, I'd
6 appreciate it. It looks like we have a quorum of
7 members, so I'd like to go ahead and call the meeting
8 to order.

9 I'd like to welcome everyone to the OSHA
10 Construction Advisory Committee meeting. This will be
11 our second meeting of the year and our last meeting of
12 this year, I think. I haven't talked to staff about
13 future meetings going out, but we appreciate everyone
14 being here.

15 I'd like to start by welcoming -- I found
16 out over my years on serving on ACCSH that if you've
17 been around for more than a couple years you always
18 have a turnover in committee members, and so this time
19 around we have two new members, one representing the
20 public sector, Ron Sokol with -- is it the Texas
21 chapter of ASSE? I think that's right, Ron? Texas
22 chapter?

23 MR. SOKOL: Safety Council of Texas City, a
24 nonprofit Safety Training Center.

25 CHAIRMAN STAFFORD: Okay.

1 MR. SOKOL: Principally for contractors in
2 the petrochemical industry.

3 CHAIRMAN STAFFORD: All right, I appreciate
4 that, Ron. And Andy Peters with AECOM. I've had the
5 pleasure to work with both Ron and Andy in different
6 capacities over the years, and Andy's here as an
7 employer representative, and we welcome you, Andy. We
8 look forward to working with you.

9 So, with that said, I'd like to go around
10 the room and first do introductions of the Committee,
11 and then we'll do introductions of the audience, and
12 then we'll get into our agenda.

13 Dean McKenzie has told me that David had to
14 run -- Dr. Michaels was up first on our agenda, but
15 we're going to flip-flop and have Dean go first and
16 then we'll have David come in when he comes back. And
17 then for today we have a pretty straightforward
18 agenda. We're mostly hearing what's happening at DOC
19 from Dean, what's happening in the bigger picture at
20 OSHA from Dr. Michaels. Christine Branche, our
21 colleague from NIOSH, will be telling us what's going
22 on at the NIOSH construction office.

23 Tomorrow is a little bit different. We have
24 the one reason that we're here primarily is this
25 committee over the last 14 or 15 years has taken up

1 various issues related to the crane and derrick
2 standard and I believe we have a few amendments that
3 we'll be looking at tomorrow which will probably be
4 the last time I think that ACCSH will be -- knock on
5 wood -- the last time that ACCSH will be dealing with
6 the crane and derrick standards once we get through
7 these amendments. So that will take place tomorrow
8 afternoon.

9 The OSHA staff to the ACCSH members have
10 sent out OSHA's proposed amendments, the rationale for
11 them, so I hope all the members have had a chance to
12 take a look at that and we'll have a good discussion
13 for tomorrow.

14 For those of you in here today that won't be
15 here tomorrow that are interested in saying anything
16 about crane and derricks in your comments, we would
17 welcome public comment. I ask you to sign up for
18 public comment in the back. There's a sheet in the
19 back of the room. It's always a little bit iffy
20 depending on our schedule, but we'll get to as many of
21 you as we can in the public comment period. If we get
22 through the agenda quicker today, that will be quicker
23 and we can take more. You can sign up again tomorrow.
24 We always welcome public comment obviously.

25 So, with that, let's do introductions. I

1 guess, Eric, we will start with you and go this way.

2 MR. KAMPERT: Sure. Eric Kampert, the
3 Designated Federal Official for today with the Office
4 of Construction Services and Directorate of
5 Construction.

6 MR. CANNON: Kevin Cannon, AGC of America,
7 employer rep.

8 MR. MARRERO: Tom Marrero with OTS Holdings,
9 employer rep.

10 MS. DePRATER: Cindy DePrater, Turner
11 Construction, employer rep.

12 MR. PETERS: Andy Peters with AECOM,
13 employer rep.

14 MR. RIVERA: Jerry Rivera, Washington, D.C.
15 NECA, employer rep.

16 MR. STRIBLING: Good afternoon. Chuck
17 Stribling, Kentucky Labor Cabinet, state plan rep.

18 MS. BRANCHE: Christine Branche, NIOSH,
19 federal rep.

20 MR. SOKOL: Ron Sokol, Safety Council of
21 Texas City, public representative.

22 MR. HICKMAN: Palmer Hickman, IBEW, employee
23 rep.

24 MR. RANK: Steve Rank, Iron Workers
25 International Union, labor rep.

1 MR. BELTRAN: Alex Beltran, International
2 Union of Painters and Allied Trades, employee rep.

3 MR. HAWKINS: Steve Hawkins, Tennessee OSHA,
4 state plan representative.

5 MS. WILSON: Lisa Wilson, ACCSH counsel.

6 CHAIRMAN STAFFORD: Thanks again. Start
7 with you -- whoever -- Rod.

8 MR. WEBBER: Yes, Rob Webber with PENTA
9 Building Group, Las Vegas, Nevada.

10 MR. ROLFSEN: I'm Bruce Rolfesen, a reporter
11 of Blumberg BNA.

12 MR. SEMORE: Bryan Semore, Directorate of
13 Construction.

14 MS. GONZALEZ: Gloria Gonzalez, a reporter
15 with Business Insurance Magazine.

16 MR. REYNOLDS: Dave Reynolds. I'm a
17 reporter with Inside OSHA Newsletter.

18 MS. ABRAMS: Adele Abrams, representing
19 American Society of Safety Engineers.

20 MS. BRAUM: Annette Braum, Directorate of
21 Training and Education, OSHA.

22 MR. STURTECKY: Brian Sturtecky, Directorate
23 of Construction.

24 MR. SCHNEIDER: Scott Schneider with the
25 Laborers.

1 MR. PARSONS: Travis Parsons with the
2 Laborers.

3 MR. MCCULLY: Mike McCully, Sheet Metal and
4 Air Conditioning Contractors Association.

5 MR. CHENEY: I'm Pete Cheney with the
6 Mechanical Contractors Association of America.

7 MR. HERING: Bill Hering, Regional Safety
8 Manger for Matrix North American Construction, also
9 representing the Association of Union Constructors
10 with my colleague over here, Wayne.

11 MR. CREASUP: Wayne Creasup with the
12 Association of Union Constructors.

13 MR. TRAMMELL: Chris Trammell, Operating
14 Engineers.

15 MR. SHAW: Matthew Shaw, National Commission
16 for the Certification of Crane Operators.

17 MS. O'QUINN: Beth O'Quinn, Specialized
18 Carriers and Rigging Association.

19 MR. KENNEDY: George Kennedy, National
20 Utility Contractors Association.

21 MR. GLAZER: Jim Glazer, representing Elliot
22 Equipment Company.

23 MR. STREALY: Alden StrealY with AGC of
24 Oregon.

25 MR. HEINLEIN: Good afternoon, everyone.

1 Carl Heinlein with American Contractors Insurance
2 Group.

3 MS. TERRY: Jane Terry, National Safety
4 Council.

5 MR. FIDLER: Eric Fidler, Manitowoc Cranes.

6 MR. CHANDLER: Mark Chandler, Kentucky Face
7 Program.

8 MS. VETTIG: Chelsea Vettig, National
9 Association of Home Builders.

10 MS. SHEIH: Najia Sheih, AGC of America.

11 MS. MIHELIC: Michele Mihelic, American Wind
12 Energy Association.

13 MR. BRADBURY: Wyatt Bradbury, JE Richards
14 Electrical Contractors.

15 MR. MCTUGGLE: Ron McTuggle, National
16 Association of Home Builders.

17 MR. BROWN: Tony Brown, A.D. Brown
18 Consulting Company.

19 MR. GRUNDAHL: Kirk Grundahl, representing
20 the National Framers Council.

21 MR. MARR; Courtney Marr, DOC.

22 MR. MAYNARD: Gabor Maynard, Directorate of
23 Construction.

24 MR. PAYNE: Michael Payne, OSHA, Directorate
25 of Construction.

1 MR. BOZEK: Rich Bozek with Edison Electric
2 Institute.

3 MR. KELLY: Chuck Kelly, consultant,
4 representing ConEd.

5 MS. OSHA: Lolita Oscha, Directorate of
6 Construction.

7 MS. CHATMAN: Veneta Chatman, Directorate of
8 Construction.

9 MR. AYUB: Mohammed Ayub, DOC.

10 MS. MARSHALL: Gale Marshall, Directorate of
11 Construction.

12 MR. WHEELER: Wes Wheeler, NECA.

13 MR. BONNEAU: Damon Bonneau, DOC.

14 CHAIRMAN STAFFORD: All right, did we cover
15 everyone? All right. Thanks again. Remember, if
16 you'd like to make a comment, please sign up in the
17 back. I don't know. This is the first time it's
18 happened, there must be a coup or something going on.
19 All the employers are stacked up on my right side, so
20 we'll see what's going on here as we get in this
21 discussion.

22 Eric Kampert is our Designated Federal
23 Official. Eric, do you have any announcements?

24 MR. KAMPERT: Yeah. First, I'd like to read
25 the exciting safety briefing, so bear with me here.

1 Thanks, Pete.

2 So, in the event of an emergency or a drill
3 requiring evacuation of the building, do not use the
4 elevators. In the event we have to evacuate the
5 building, Damon Bonneau, who's in the back --

6 MALE VOICE: He's leaving.

7 MR. KAMPERT: He's leaving. Don't follow
8 him yet. He will be our crowd manager in the back of
9 the room. Your primary exits are the doors which you
10 entered the room. Upon entering the corridor promptly
11 turn right and take the nearest stairwell. Proceed
12 down to the plaza level.

13 Once you get to the plaza level you'll be
14 directed by DOL security personnel to the 3rd Street
15 exit. Proceed across the fountain plaza across the
16 street and proceed to C Street, to the assembly
17 location between the two courthouses there and the
18 Municipal Center. Please use the crosswalks and
19 assemble in the plaza area in front of the steps. All
20 that being said, the easiest way is follow everyone
21 and Damon out the doors.

22 Shelter in place procedure. If there is a
23 shelter in place event, stay in this room. It's a
24 designated shelter in place location.

25 Facility locations, restrooms located to the

1 right and left as you exit the room. They're right by
2 the drinking fountains.

3 Thank you. When we take a break, coffee and
4 stuff is on the sixth floor. That's the easiest
5 place. There is one on the fourth floor if you've
6 been here before. And again I'd like to welcome Ron
7 and Andy, and I'd like to welcome back Cindy. This is
8 her second term. Who else is -- Palmer, second term,
9 and our senior statesman. Is this your sixth term?

10 MR. HAWKINS: I think so.

11 MR. KAMPERT: Okay. So, Mr. Hawkins,
12 thanks. And I'd like to thank those departing members
13 that aren't here: Jeremy Bethancourt, Don Pratt and
14 Roger Erickson. They served very well here on ACCSH,
15 so thanks to them and thanks to everyone for being
16 reappointed and new appointees.

17 I guess that's about it.

18 CHAIRMAN STAFFORD: Okay. Thanks, Eric.

19 Well, Mr. McKenzie, I think the last time we
20 heard from you you were acting, so this will be your
21 first meeting as the full-time director of DOC, and we
22 appreciate you being here, Dean, so please, the floor
23 is yours.

24 MR. MCKENZIE: Good afternoon and thanks. I
25 appreciate the opportunity to be here and, you know,

1 try to continue the Directorate of Construction moving
2 forward in the path we've been on for some years and
3 continuing to go.

4 One of the first things that, you know,
5 we've got to do is get a new deputy, and we've got the
6 posting out. We hope to have a -- interviews have
7 started for that. With any luck, I'll be able to make
8 a selection and have a shiny new deputy for Christmas.
9 That's my goal anyway.

10 Usually, you know, it's kind of incumbent on
11 us OSHA folk to hit you with a bunch of stats in our
12 presentations. Well, BLS has changed a little bit how
13 they do their census of fatality injuries. Instead of
14 coming out with preliminary numbers in the spring or
15 early summer, they're only going to issue fatality
16 numbers in December. This year it'll be December 16.
17 So there's really not a lot of new numbers to share,
18 and even though we are bound to give you data, I
19 decided not to give you two-year-old data and discuss
20 the fatalities at that age. So no more preliminary
21 numbers will be out.

22 The injury numbers came out and a highlight
23 of that is the -- shows a reduction from 3.2 to 3 per
24 100 workers, which is an improvement in injuries for
25 BLS. They just came out with those a couple of weeks

1 ago.

2 Construction in 2014, the final numbers are
3 still at 8.99, fatality rates at 9.8. These are
4 climbing. As you can see, we are hopeful that the
5 2015 numbers when we see them on the 16th will not
6 continue to show climbing, but there's a -- all
7 evidence appears that we have a lot more work and
8 there's more construction activity; therefore, more
9 exposure and probably we will see numbers going up.
10 We would like to not see that.

11 The top 10 frequently, most frequently cited
12 construction violations, as most of you know, these
13 don't change a lot. Fall protection continues to be
14 the number one citation, scaffolding, ladders, fall
15 protection training, eye and face. But if you look at
16 these, the bulk of them are fall-related when you look
17 at scaffolds, ladders, aerial lifts, fall protection
18 systems. You know, there's a big deal of that.

19 Excavations, this has been a horrible year
20 this year for excavations. We have doubled the
21 fatalities from the year before. I think we are at 22
22 or 23 trenching fatalities this year. There's been a
23 rash of them just in the last few weeks, and I don't
24 know that I have a good answer for what is going on,
25 but something is, and, you know, anything that we can

1 do to redouble our efforts has got to be beneficial.

2 You've all heard about the case in Boston
3 that has the State of Massachusetts and the City of
4 Boston trying to look at some pretty serious measures
5 on changing their entire permitting process and their
6 contractor licensing process using OSHA citation and
7 incident histories in that process. That's kind of a
8 switch for that state anyway, and it's about -- the
9 result of it two or three fatality case in downtown
10 Boston. We just had two more in Region 5, in the
11 Chicago area. So excavation, I think, will continue
12 to be a problem.

13 The big happy announcement today, and Dr.
14 Michaels will be disappointed that I will steal his
15 thunder, but my slide deck came up first, the Safety
16 and Health Management recommendations for construction
17 have been published today. The general industry set
18 came out a few -- a couple of months ago. We got the,
19 finally got the construction set out, and these are --
20 the result of a lot of work in construction is a
21 different beast to general industry due to 1926.20(b).
22 We have standards that require a program. So this
23 guidance was a little bit trickier to put out and how
24 we treat that. But they are out and ready for use.

25 We will have the same seven core elements.

1 A lot of the principles are identical to the general
2 industry set with a few things that are, you know,
3 just slightly different tweaks. We discuss multi-
4 employer differently. We talk about that in the
5 document as well.

6 Everybody's favorite issue, we're going to
7 talk a little bit about the regulatory stuff. The
8 crane operator qualification is very close to getting
9 over to OMB. We hope to have it over there and
10 still, depending on how well OMB moves things along,
11 still be able to get published by January with any
12 luck. No one knows what the transition is going to do
13 with the regulatory process. We have industry support
14 for making this rule happen and get it out, but we
15 think we are very close. If we can get it into
16 exec -- the departmental clearance, exec. sec. we call
17 it, clearance in the next week or so and get it off to
18 OMB, maybe we can have it out and published sometime
19 in January, which is our current target to get that
20 out.

21 From there we'll find out if we have
22 hearings, you know, what kind of reception the
23 proposal receives from the public and the industry.
24 Then we'll go from there. We think we still have a
25 very good opportunity to have it done by November, and

1 if all hell breaks loose and we can't, we have the
2 option of doing some kind of enforcement policy or
3 something like that, or we will have to do another
4 rulemaking to extend the effective date again before
5 November. So an enforcement policy would be the
6 quickest, easiest thing. That could happen in a day.
7 But depending if we have to go into hearings and spend
8 months on hearings, the more attention it gets at this
9 point the slower things will move. So we hope to see
10 it get out of the department, get to OMB and OIRA move
11 on the piece and get us going. Nobody wants this out
12 more than we do.

13 We also have the crane amendments and you
14 guys will hear a little bit about some of these
15 amendments tomorrow. You've already heard several of
16 these. The crane rule has provided many opportunities
17 for us to do rulemaking and fix things and adjust
18 things that we either learned as a result of the rule
19 coming out or things that were a problem in the rule
20 that, you know, maybe we didn't know.

21 Garvin and his shop will be in tomorrow to
22 discuss the new items, but we hope to get it in, you
23 know, pretty good shape and maybe February be able to
24 do something with it. We think we're down to the
25 final throws of getting it done. There were a handful

1 of new items that will be discussed tomorrow that were
2 relatively recent additions to the crane amendments,
3 and that's why you guys will see those tomorrow.

4 The crane railroad amendments, the
5 settlement with the American Railroad Association,
6 we'll have to -- it's nearly done -- try to get that
7 out. That is required as a result of the settlement,
8 and the FRA, I saw an article today, just published a
9 notice encouraging their employers to pay attention to
10 the OSHA requirements, and I was expecting to see
11 something about cranes in there, but it was just not
12 everything you do on a railroad falls under the
13 railroad, the FRA. So there are situations where they
14 have to follow both sides of the standards for
15 railroads.

16 Standards improvement project, this is SIPs
17 No. IV. You have seen all of the comments on that.
18 It is open right now for public comment. We are
19 extending the public comment 30 days. That will be in
20 the *Federal Register* on Friday and we hope to have a
21 press release out today announcing that, but I'm happy
22 to tell you that we were asked to extend the comment
23 period for that by 30 days and we have done so. So,
24 if any of you are in the middle of trying to finish
25 your comments, you've got a few more minutes.

1 Back over to hazards. We still have it on
2 the reg agenda for a SBREFA in, I believe, March. We
3 hope to be able to continue with that and keep moving
4 that along and get back overs on. Other regulatory
5 items that we're working on is the noise in
6 construction RFI. We are still working through the
7 legal department, you know, the solicitor's office to
8 get that in shape ready to get into clearance.

9 The comm tower SBREFA package, we are very,
10 very close to having that ready to go. We've just got
11 to get our turn in the box to get it in. We've got
12 the package in. The Small Business Administration is
13 actually looking for that one, would like to see it.
14 There's just competing issues that are -- looking at
15 combustible dust is another one that they're trying to
16 do a SBREFA on. So we'll have to see which one gets
17 out.

18 And we have tech corrections, and this tech
19 corrections is true technical corrections, not
20 anything interpretive, anything like that. They are
21 editorial fixes to 16 different standards where a
22 comma is wrong, where a reference in the citation in
23 the standard is wrong. So we have 16 of those that we
24 are trying to work on and get that done.

25 Crane letters of interpretation. One of the

1 ways to know that you've asked OSHA a good question if
2 you ask for an interpretation is how long it takes to
3 get the answer. The better the question the harder
4 the review is and the harder we've got to look at it
5 and get it done. We've got five letters out earlier
6 this fall that were -- some of those letters, they
7 were a little bit challenging to put out and get
8 cleared, so if you haven't seen those, I encourage you
9 to look at those.

10 We have been doing a lot of work on letters
11 of interpretation. There are well over 2,000 letters
12 of interpretation on 1926 alone. That's a lot of
13 letters. They go back to the early '70s. So we have
14 taken on the project, largely Eric's shop, to review
15 every letter of interpretation. We started with some
16 construction versus maintenance letters of
17 interpretation. There's, what, 17 or 18 total letters
18 talking about when it's construction and when it's
19 maintenance. We have archived two; one was a Stanley
20 memo and one a John Miles letter. Five of them were
21 amended to go to what we call the Knobbs letter. It's
22 a 2003. It's probably our most expansive discussion
23 of how you make the determination of construction
24 versus general industry, and we've done that.

25 We've only got 12 more construction versus

1 maintenance letters to go. Those are not an easy one
2 to get out because somebody really believed the
3 direction that they wrote the first time was the right
4 way, and to overcome that and get a consistent opinion
5 out does take some doing.

6 Subpart P, the excavation standard, we have
7 over 60 letters that are posted to the webpage. We
8 hope to archive 11 of them, and when I say "affirm,"
9 that's our term, affirm, it'll have to be some other
10 legalese applied to that word, but if you're looking
11 at a letter from 1973, it's not necessarily comforting
12 that that's current policy. So we are going to try to
13 be able to put a stamp on there that says these
14 letters are still OSHA policy and accurate.

15 There are letters that are perfectly good.
16 Nothing has changed. The answer is still the same.
17 But it's not necessarily comforting. There are 29 or
18 so that we will have to repair, fix them. Some of
19 these were back before the current standard was out.
20 Some of them are policy that has changed, rulemakings
21 have changed. We've archived four and three more are
22 in the solicitor's office for archiving.

23 When we archive a letter of interpretation,
24 it is not gone forever. There are places on our
25 webpage that if you look up archived letters you can

1 get to them, or if you know a letter by name or date
2 and you search for that letter it may still come up.
3 However, it'll have a banner across the top that says
4 "Archived. No longer reflects agency policy," and
5 that is because it's a matter of public record, it was
6 the peoples' money and work that put that letter
7 there, it is a permanent record and we keep it. But
8 we are removing some from current policy.

9 Subpart CC, the crane standard, there's over
10 50 current letters. We have already archived 24, and
11 this was when the standard came out. Going back to
12 Subpart N, we had 24 letters to get rid of, amended
13 11. We still have 18 more to go.

14 Scaffolding, scaffolding is obviously a
15 challenging subject. There are 550 letters on Subpart
16 L. Now that the general industry walking/working
17 surfaces rule is out that will point general industry
18 to the construction standard, Subpart L, for all
19 scaffolds, we will see a lot more attention to the
20 construction standard. Those of us in the
21 construction side of the house are kind of familiar
22 with the words of the rule and how it works and what
23 it does and what it means, but we will have a very
24 large new audience paying attention to that. So we
25 are putting a lot of effort right now trying to go

1 through these letters.

2 There's 58 of the 550 letters that were
3 issued before the current rule was published. They're
4 obviously quite suspect that they may not be
5 applicable anymore and may not be right. Those are
6 targeted for potential being archived. Of those 58,
7 37 look like they're going to go away, but we also
8 want to redo this directive, update the directive.
9 The scaffolding directive is from an era when we took
10 a different approach to how we wrote an enforcement
11 directive, and it needs some attention.

12 Communication towers has been a real
13 challenge for us for the last couple of years. It's a
14 relatively small industry that we don't have much
15 opportunity to have an impact on. It's not like we
16 can pull a Dodge report and go inspect a communication
17 tower while somebody's on it. The work is often very
18 short duration, and when it goes wrong it goes wrong
19 in a really big way.

20 So we have spent a lot of attention on that.
21 2016 -- I think that number is off one. We've had six
22 in 2016, three in 2015. Prior to that we -- 2014 was
23 12 and 2013 was 13 fatalities. The year before that
24 was two. The year before that I think was three.

25 When you look at the fatality rates going

1 back to even the late '90s into the early 2000s was
2 when, and it spiked into the 30s and 40s fatalities,
3 that was when digital TV rolled up, and that was all
4 the work in hoisting personnel on 1,000 to 2500-foot
5 tall towers. Then that kind of died off and settled
6 down, so you only had light bulb changes, minor
7 maintenance and smaller things.

8 The 2013 and '14 rash of fatalities was
9 based around the 4G rollout, and we all have a cell
10 phone or two in our pockets and we all like that 4G
11 speed and capability. That is based on that. They
12 are getting ready to roll out 5G, so we anticipate
13 another rash of activity on the towers. We've been
14 doing as much as we can in outreach. We support all
15 of our state offices, our federal offices out of DOC,
16 and the solicitor's office with enforcement guidance
17 to be as effective in our enforcement cases as we
18 possibly can.

19 Mohammed Ayub, many of you know, his Office
20 of Engineering Services has done three investigations
21 of collapses and serious things going awry there. We
22 have worked with the National Association of Tower
23 Erectors, survivor organizations, of which I think
24 there's three that I'm aware of. In a tiny industry
25 of maybe 20 or so thousand people, to have three

1 associations that are just survivor support groups is
2 kind of telling in itself.

3 We've done two workshops with the FCC. This
4 has actually kind of been a fascinating thing, to get
5 the FCC engaged in a worker safety issue, and they
6 have been very good partners with us on this and
7 working on it. I think that if we are able to
8 continue going forward on rulemaking for communication
9 towers after a SBREFA, I think the FCC will be a
10 partner in helping us and resolving. Maybe we can
11 make some improvements with the FR or the radiation
12 and get some progress with that industry.

13 We had a Request For Information, shocking
14 number of results out of that. You've all heard in
15 the past. That has changed in many ways how OSHA is
16 looking at doing a Request For Information and comment
17 periods. We are in the process right now of working
18 on our own portal to have for individuals, the public
19 and et al., to comment on a proposed rule or a Request
20 For Information for their cell phone or for their
21 tablet without having to go in through regs.gov. We
22 hope to see this up sometime in January, but that will
23 be a novel thing.

24 Right now, for those of you that have done
25 comments on any kind of a rulemaking or whatever,

1 regs.gov is not exactly what I would call a friendly
2 website to go look at and figure out where your rule
3 is and how to make comments, so this will be a much,
4 much simpler template and it will still upload
5 straight to regs.gov. But that is a result of the
6 comm tower RFI and the success we had in making that
7 simple by working with Wireless Estimator, a webpage
8 for that industry.

9 Since we've started this effort and our work
10 with the industry and there was some direction already
11 going this way, two new consensus standards have been
12 published. The ANSI-TIA, Tower Industry Association,
13 has published their structural design standard and the
14 A1048 comm tower standard have both been published.
15 These are both significant projects for this industry
16 and getting them out.

17 We've had a lot of interaction with both
18 committees. We just met with the TIA crowd here at
19 OSHA a few weeks ago to talk about proposals they're
20 looking at for updating new standards. It's been a
21 great collaboration, and the attention that safety is
22 getting in this industry is refreshing to see them
23 paying so much more attention on such a broad level
24 compared to where it was three or four years ago.

25 The next thing in the comm towers I want to

1 talk about is there's a potential for a third OSHA/FCC
2 meeting. I don't know how many of you have heard of
3 the repack that the FCC is doing. They are going to
4 sell bandwidth from broadcast television. Currently,
5 broadcast television, the old three channels we grew
6 up with, some of us older folks grew up with, goes
7 from channel 2 to channel 81. They're going to sell
8 about 31 of those channels, that bandwidth, to
9 wireless telecommunications. This is typically on the
10 2200 or so tall towers that are 1,000 foot up to 2500-
11 foot towers, to take the antennas down and sell that
12 bandwidth off to wireless people. So all the carriers
13 are buying this bandwidth. We anticipate at least 50
14 percent of that 2200 towers needing to be reworked in
15 some way, antenna changes.

16 The FCC, for a reason I don't have an answer
17 to, has decided this work has to be done in 39 months.
18 There are only a handful of companies in the country
19 that are really qualified and competent to do this
20 caliber of work. For those of you that may or may not
21 know, they typically will set up a hoist and hoist
22 people and antennas up the tower with the use of a gin
23 pole, and when it's done right it's okay. When it's
24 not done right, that's when two or three, four or five
25 are all killed at once. That's where the fatality

1 numbers got so high in the late '90s and early 2000s
2 was that type of work when they rolled out the digital
3 TV.

4 So we are working with the FCC, hope to have
5 another meeting, try to work through these issues, try
6 to get the people that are -- if I'm Dean's TV channel
7 and I own some bandwidth on a tower and I auction it
8 off back to the FCC and Verizon Wireless goes and buys
9 that, then I will be notified. OSHA will find out who
10 that person is that sold it, who the person is that
11 bought it. Then we will try to reach out to them and
12 encourage them to do the best they can, but it's going
13 to be a very tough challenge to keep up with this and
14 keep up with the 39-month schedule.

15 We have been working quite a bit on
16 alliances. DOC supports all of the alliances here
17 that you see listed. The alliances offer an
18 interesting partnership with OSHA in that one of the
19 requirements for them is training, that they need to
20 either offer OSHA training or training to others in
21 their industry and on all standards and worker safety
22 and health. So we have enjoyed supporting this group
23 and anticipate in the next few years maybe a few more.

24 Digital media. If Frank Mylinger from our
25 communications office was here, he'd be happy to jump

1 up and down. OSHA finally has its own Twitter account
2 so that we can do our own tweets. I'm a little dumb
3 on this stuff, but we can now tweet. So, if any of
4 you have social media accounts and wish to follow
5 along and share information that way, please do so.

6 My favorite subject is national safety
7 stand-down. You'll hear more about this later from
8 Jessica Bunting with CPWR, but we will do the stand-
9 down again in 2017. Our date is the week of May 8,
10 which will give us a little bit of a buffer between
11 work and Memorial Day, which is April 28. Hopefully,
12 we'll have one week in there that we can start doing
13 some advertising and marketing for the stand-down.

14 The stand-down has been just a huge success
15 and I couldn't be prouder to be involved with it and
16 the number of people that we were able to reach out to
17 and touch has just been phenomenal. We're excited to
18 do it again and Dr. Branche is engaged and Pete with
19 CPWR. This is pretty cool stuff, and it's
20 interesting. Since the stand-down started I hear more
21 and more about other people around the building
22 wanting to do a stand-down on their topic. But it's
23 really neat.

24 We've gotten two Canadian provinces engaged
25 and want to be involved. I got a call from Quebec a

1 couple of months ago, how did we do this? How did you
2 do that? How did you get that going? And so we're
3 excited to spread that, and I encourage all of you to
4 be engaged and look for ideas.

5 One challenge we had last year with the
6 stand-down, and I don't know, we counted people by the
7 certificate page. If you pulled a certificate of
8 participation, you had to answer a couple questions
9 that might tell me Turner Construction and how many
10 people were there. Not many people wanted to get
11 certificates last year.

12 We had webpage -- web server issues and our
13 webpage was down quite a bit during the stand-down,
14 but I'm interested in any ideas on how to count
15 people, how to know that people participated. We know
16 that a lot of folks participated. We know that the
17 fall protection manufacturers tell us this is their
18 biggest public-facing event they do all year and, you
19 know, we hear back from them. They're involved and
20 busy and have their demonstration trucks all over the
21 country. But how do we demonstrate that we're having
22 success in reaching people?

23 You know, I'm very interested in anybody's
24 ideas on that. It's important that we protect the
25 public that tells us they did it, you know. One

1 thing, you get no benefit for doing it other than
2 telling your workers about fall protection and maybe
3 keeping somebody from being hurt, but there's no
4 citation protection just because you did a stand-down.
5 But we don't want to market to them. We're not using
6 this information to anything other than to count the
7 effectiveness of the campaign. So it's a interesting
8 challenge to think of how to do that.

9 We've hit at least 5 million workers with
10 the stand-down, and I believe it's higher than that,
11 but that's what I can document. All 50 states and
12 around the country, small businesses. This year I'm
13 hoping to see a real push with general industry. They
14 have a new fall prevention rule. They have a lot of
15 things to talk to their employees about this year with
16 the new requirements. I would love to see general
17 industry become more engaged in the stand-down this
18 year, and again, the certificate page or whatever idea
19 we can come up with.

20 Many of you have been familiar with our
21 engineering office over the years and Mohammed's work.
22 We have started posting a lot of his investigations on
23 the webpage. Once the cases are closed and cleared
24 we've been putting them up public. I don't know if
25 you've ever read any of these reports, but they can be

1 a very, very interesting story about what happened,
2 how it happened. As you know, most incidents are not
3 a single event. It's a chain of events in how it
4 happens.

5 When the NTSB wants to tell you how a plane
6 crashed or something like that happens, it might take
7 them years. These fellows have got six months to put
8 it together and get a report out, so they do some
9 phenomenal work with that. But the webpage is up from
10 DOC. Great for use, you know, for training. If you
11 are getting ready to do an unusual project or
12 something like that, it might be worth taking a look
13 and see if there's a report of something bad happening
14 in there. Might be a good guide.

15 If you haven't been to DOC's webpage, I
16 encourage you to. It's a link to a lot of our good
17 work and products that we have, the stand-down. And
18 with that, I'm happy to take any questions.

19 CHAIRMAN STAFFORD: All right. Thank you,
20 Dean.

21 Any questions or comments? Yeah, go ahead,
22 Steve. Steve, introduce yourself. I told the
23 reporters earlier today that I'd do a better job of
24 having us introduce ourselves, so I've been remiss on
25 that.

1 MR. RANK: Steve Rank with the Iron Workers
2 International.

3 Dean, I'm really glad that you're addressing
4 structural collapse. That still is, I think, a big
5 overlooked issue. Form work, temporary form work is a
6 huge issue on stability and all that. I'm really glad
7 that you're working with NATE. That was one of the
8 big successes this year was to have a new ANSI
9 standard on A1048 on tower erection, and that's a
10 very, very detailed standard that has a lot of
11 engineering in it that I believe will have drastic
12 effects on the type of fatalities that we've been
13 seeing for a long time, but they have training
14 components in there, they have engineering, and I
15 think they have really come a long way, so I encourage
16 the agency to stick with NATE if you want to pursue
17 rulemaking on that and hopefully don't deviate too
18 much from the ANSI standard because it looks pretty
19 clean.

20 MR. MCKENZIE: Yeah, the ANSI standard
21 working in conjunction with that 322 standard --

22 MR. RANK: Yeah.

23 MR. MCKENZIE: -- hits a lot of marks.

24 MR. RANK: Yeah. Lastly, I'm glad that
25 you're going through the letters of interpretation and

1 I'll be sending you some letters on some things that
2 we need to revisit that weren't listed in here, some
3 things on Subpart R, steel erection, that we believe
4 are -- that would warrant your attention, and letters
5 of interpretation, clarifications and compliance
6 directives can cut both ways, you know. They can
7 clarify an issue, but if you get them wrong, they have
8 an absolute devastating effect in the workplace.

9 Employers don't know what to comply with.
10 They read your letters of clarification. They think
11 it's a standard. They don't want to get cited, and so
12 it causes confusion between the owners, generals, and
13 subs, so the employer doesn't know what to comply
14 with, and when it comes to training, what do they
15 train to? Do they train to the standard or maybe an
16 interpretive letter that's far different than what the
17 standard requires?

18 So those are things that I'm glad that
19 you're reviewing, and I will send you a list of some
20 other letters that we'd appreciate some time for you
21 to revisit.

22 MR. MCKENZIE: Great. Look forward to it.

23 MR. RANK: Great. Thank you.

24 CHAIRMAN STAFFORD: I'm sure they are
25 looking forward to more letters, Steve, so that would

1 be a good thing. Yeah, Jerry, please.

2 MR. RIVERA: Yes, Jerry Rivera, Washington,
3 D.C. NECA, employer rep.

4 Dean, thank you for the presentation. It's
5 refreshing, the new approach. I have a couple of
6 questions about the letters of interpretation, just
7 mainly clarification. I'm not sure I understand a
8 couple of them. I understand the archive. You
9 briefed us on that. But what does it mean when we
10 affirm a letter of repair or amend? You know, how
11 does that play into new rules? Is it just that a new
12 rule comes into play you adjust? How does that
13 actually work?

14 MR. MCKENZIE: There's letters that are old
15 enough through multiple administrations that one
16 letter says go this way and another letter on the same
17 thing says go this way. We're 20 years of different
18 administrations and policy perspectives. We're there
19 that one has to be the current policy. And in the
20 construction versus maintenance letters, there was one
21 that we archived that said if you have picked up a
22 paint brush it is construction, and that we wouldn't
23 opine that way in today's OSHA, and that, you know,
24 letter is one that we removed -- archived.

25 The affirm, and I said that that is Dean's

1 term. That is not the official term. But an old
2 letter we want to market to say this is still policy.
3 This is still good. Whether it's reviewed 2017 or,
4 you know, some way of showing that that old letter
5 still reflects agency policy.

6 When we repair a letter of interpretation
7 and you can find some on the web now, there will be
8 strike through of the text that we change because it
9 always has to remain. That is still public record.
10 We will strike it through. There will be a note that
11 says this letter was modified with a date to reflect
12 current policy or current standards.

13 MR. RIVERA: And amend.

14 MR. MCKENZIE: Amend, repair.

15 MR. RIVERA: Okay.

16 MR. MCKENZIE: Same thing.

17 CHAIRMAN STAFFORD: Does that answer, Jerry?

18 MR. RIVERA: Yes, it did.

19 CHAIRMAN STAFFORD: Any other questions or
20 comments? Go ahead, Kevin.

21 MR. CANNON: Kevin Cannon, agency employer
22 rep.

23 I have two questions, Dean. One on the
24 frequently issued citations, and I see, and it may be
25 I've overlooked it in the past, but I see general

1 safety and health provisions is on there as I think
2 No. 6. Do you know there what those citations are
3 related to? Is it the program component, frequent and
4 regular inspections, or a combination?

5 MR. MCKENZIE: I'd have to look it up,
6 Kevin. I don't know off the top of my head exactly --

7 MR. CANNON: Okay. Which one?

8 MR. MCKENZIE: -- which one.

9 MR. CANNON: Okay. And the second just to
10 clarify a statement you made about the cranes. If for
11 whatever reason, time and purposes of getting it
12 through the clearance or requests for hearings or
13 whatever the case may be, once we're pushed up against
14 the extended, you know, 2017 effective date, you do
15 have mechanisms in place to avoid any disruptions so
16 to speak?

17 MR. MCKENZIE: Yes.

18 MR. CANNON: Okay.

19 CHAIRMAN STAFFORD: So let me follow up on
20 that, and I think, Ron, you had a question too. So
21 the final proposed rule, the crane rule is getting
22 ready to go to OMB, right?

23 MR. MCKENZIE: Yes.

24 CHAIRMAN STAFFORD: And so any amendments
25 that we take up tomorrow, are they going within that

1 rule or is that going to be amended?

2 MR. MCKENZIE: Oh, no, no, no, no.

3 CHAIRMAN STAFFORD: Tell me how this works
4 again.

5 MR. MCKENZIE: That's not the final -- you
6 said that.

7 (Laughter.)

8 CHAIRMAN STAFFORD: And you agreed with me.

9 MR. MCKENZIE: No. The crane amendment is a
10 separate rulemaking.

11 CHAIRMAN STAFFORD: Mm-hmm.

12 MR. MCKENZIE: What we're talking about
13 being close to getting out to OMB for final proposed
14 rule publication is operator qualification only.

15 CHAIRMAN STAFFORD: Just the qualification.
16 Okay, thanks.

17 MR. MCKENZIE: There's still two, three to
18 go.

19 CHAIRMAN STAFFORD: Mm-hmm.

20 MR. MCKENZIE: You have already seen them,
21 the Committee has already seen them other than the
22 four items we will discuss tomorrow.

23 CHAIRMAN STAFFORD: Tomorrow. Right. Okay,
24 thanks for the clarification. Ron, did you have --

25 MR. SOKOL: Ron Sokol, Safety Council Texas

1 City, public representative.

2 Dean, regarding the national stand-down,
3 we're about maybe six months out from that, is there
4 an effort to be able to utilize OSHA's resources to
5 create an app that would allow mass reporting of
6 activities, number one? Issuing certificates, number
7 two? And then possibly taking success stories that
8 would come from the training that is done from the
9 stand-down that can be shared to show the impact that
10 it's truly had on protecting construction workers from
11 falls.

12 MR. MCKENZIE: I know that there is an app
13 similar to that that's intended to do something along
14 that line. We have some challenges with that as, you
15 know, our Paperwork Reduction Act and how we take
16 documentation, how the information is used and
17 provided. We're not opposed to it. The certificate
18 page allows that. We have set up a -- Eric, what is
19 it? It's not a flicker page. It's a Dropbox for
20 people to, you know, post photos to and all that. So,
21 you know, we're looking for ways to do it, but, you
22 know, I don't know that the app situation is a good
23 fit.

24 CHAIRMAN STAFFORD: Yeah, Christine, go
25 ahead and then Palmer.

1 MS. BRANCHE: Christine Branche, NIOSH.

2 With regard to that last question, NIOSH is
3 trying to be of help there, to then be of help to
4 OSHA, but we're still in a very element --
5 developmental stage there. I can't say more than
6 that.

7 CHAIRMAN STAFFORD: Thanks, Christine.
8 Palmer.

9 MR. HICKMAN: Thank you, Mr. Chairman.
10 Palmer Hickman, employee rep.

11 Dean, if I may just two quick questions, one
12 is a comment. In the 10 most frequently cited, I
13 don't see electrical there, so I don't know whether
14 the electrical has improved that much or it's not
15 being cited as much or what that means. Maybe I can't
16 even draw any conclusions from not seeing it in the
17 top 10.

18 MR. MCKENZIE: I would have to see where the
19 electrical citations fall. Electrocutions land in the
20 top four all the time.

21 MR. HICKMAN: I know.

22 MR. MCKENZIE: But the citations aren't
23 always there. You may have fallen into the electrical
24 hazard. So, you know, without having OIS opened up in
25 front of me and, you know, ready to look it up, I

1 don't have an answer for you where electrical fell.

2 MR. HICKMAN: Thank you. And the other is
3 you mentioned the operator qualification was soon to
4 come out and your hope for the crane rule. Is type
5 and capacity also close to being final or is that --

6 MR. MCKENZIE: That's all in the same rule.

7 MR. HICKMAN: It's the same thing.

8 MR. MCKENZIE: It's the same thing.

9 MR. HICKMAN: Okay.

10 CHAIRMAN STAFFORD: It's hard to keep track
11 of after all this time, but that's all together.

12 MR. HICKMAN: Yeah, thank you.

13 MR. MCKENZIE: You ought to try my chair.

14 (Laughter.)

15 CHAIRMAN STAFFORD: Any other questions or
16 comments? Yes, Steve, please.

17 MR. HAWKINS: Dean, I think this is the
18 first time ACCSH has met since you were named to your
19 position. Is that correct?

20 MR. MCKENZIE: That is correct, sir.

21 MR. HAWKINS: So I thought maybe ACCSH would
22 like to go on record as congratulating Dean on his
23 appointment. I think it's the first time that we met
24 since you were appointed, so congratulations.

25 MR. MCKENZIE: Thank you.

1 (Applause.)

2 CHAIRMAN STAFFORD: Just one last question
3 for you, Dean. The spike in excavation fatalities,
4 what does that mean to OSHA in terms of any kind of
5 something you're doing enforcement in the areas? Are
6 you doing any -- I recognize you don't know why, but
7 what are you doing about it?

8 MR. MCKENZIE: We have -- it really, to be
9 perfectly honest with you, hit us when about the third
10 case popped up and we were reviewing a significant
11 case out of Chicago, and while we were working on that
12 case three or four more cases hit the news clips and
13 everything and we said wait a minute, we've got a
14 problem here. And we started looking and the numbers
15 are double from 2015.

16 CHAIRMAN STAFFORD: Right.

17 MR. MCKENZIE: And so we are trying to
18 decide what we can do other than making our regional
19 staff and field staff aware of it, pushing the issue
20 more. Citation numbers and resources have been off a
21 bit and we are not doing as much program inspection
22 work as we have in past years. So how we get to more
23 of this and what we can do is still being looked at.

24 CHAIRMAN STAFFORD: All right. States too?
25 I mean, go ahead, Steve.

1 MR. HAWKINS: So, Dean, one of those that
2 you were talking about, the 20 whatever, one was ours
3 in Tennessee.

4 MR. MCKENZIE: Right.

5 MR. HAWKINS: And I think we had gone five
6 or six years without a trench or excavation collapse
7 fatality, and that one was one -- so probably we've
8 had two in like the last 10 years, and I know when I
9 started to work for Tennessee OSHA 30 years ago I did
10 two or three a summer myself in Nashville.

11 So, if you go back and look historically to
12 right after the standard was promulgated and became
13 effective, the numbers plummeted.

14 MR. MCKENZIE: Yeah.

15 MR. HAWKINS: I mean, it is truly one of the
16 most successful things OSHA has ever done is reduce
17 the number of excavation fatalities because you go
18 back several years and it would be like over 100 every
19 year, and now it had dropped into the teens and even
20 lower than that a couple of years.

21 I think a couple of things. For a while
22 after we got the new standard we would get a lot of
23 calls from the public and we would respond to those.
24 OSHA still has a national emphasis program on
25 excavation and trenching safety. Tennessee, I think

1 Kentucky participates in that as well. It is one of
2 the things that we will respond to immediately.

3 I have in the last couple of years pulled a
4 compliance officer off of a general schedule
5 inspection, called them on their cell phone, said stop
6 the inspection and go over here and look at this
7 excavation.

8 And so, if there's anything we can do, I
9 think the folks in this room, if you see an excavation
10 that appears to be unsafe, and generally I tell folks
11 when they ask me if it's deeper than five foot and
12 it's straight up and down or anything close to that, I
13 would like for you to call me. And so one of the
14 things we can do because OSHA in Tennessee, OSHA
15 Kentucky, I know would respond to those immediately.

16 MR. MCKENZIE: Yes.

17 MR. HAWKINS: So we need those eyes again.
18 I'm not getting those calls like I used to, and so
19 it's one of those hazards and it is a unique hazard.
20 I spent a lot of time educating employers in Tennessee
21 because I have a geological engineering background. I
22 worked in that field for a little while while I was in
23 college and right after college, and so it's such a
24 great standard. I mean, the standard is so well
25 written. It's not complicated, and I just don't think

1 we -- I don't think the public is paying as much
2 attention because our numbers are limited. We have
3 limited staff, OSHA does, TOSHA does, Kentucky, all
4 the state plans have very limited staff, and it's also
5 a hazard that is so unforgiving. There's nothing the
6 worker can do to minimize his chances of that trench
7 collapsing. When he's exposed to it, there's nothing.
8 I've said this many times.

9 We've got fall protection standards. We
10 need those. But if somebody has told me you've got to
11 go on this roof and clean out this gutter on the edge
12 of this roof, I could at least lay down and crawl.
13 But if you're in an excavation, there's nothing the
14 worker can do to reduce their exposure to the hazard.
15 You can't even be aware. You can say, well, I'm aware
16 that there's not fall protection, so I'll be extra
17 cautious. You can't be cautious in an excavation.

18 And so the folks in this room, you know, I
19 would spread the word. You see an unsafe excavation,
20 you need to call and report that to whatever the local
21 OSHA authority is, whether it's a state plan or a
22 federal/state, and expect that we consider those
23 eminent danger and we feel fully qualified and
24 authorized to respond immediately. We consider them
25 to be eminent danger.

1 CHAIRMAN STAFFORD: Okay.

2 MR. MCKENZIE: Absolutely.

3 MR. HAWKINS: Thank you.

4 CHAIRMAN STAFFORD: Kevin, do you have --

5 MR. CANNON: No.

6 CHAIRMAN STAFFORD: Ron? Anybody? Someone?

7 Steve, Steve, go ahead.

8 MR. RANK: Pete, to your question on what
9 could be done, and a lot of credit goes to the state
10 plans for doing what they do. I know in California
11 they require a controlling contractor to pull out a
12 project permit, so if you're building a football
13 stadium or a 50-story building, you pull a project
14 permit and in that project permit you go through
15 everything, whether it's structural collapse hazards,
16 excavation, power lines. So they've had a lot of
17 success under that state plan of trying to identify
18 those type things, particularly excavations, I
19 believe. So that's one thing I just wanted to --
20 that's one thing they're doing out west I see that
21 might be positive.

22 CHAIRMAN STAFFORD: Yeah. Thank you.

23 Jerry?

24 MR. RIVERA: Yes, Jerry Rivera, employer
25 rep.

1 Dean, just a quick question following up on
2 those letters of interpretation. Are there any
3 efforts when those are amended, those letters of
4 interpretation, to either put out a notice to the
5 general public either on the webpage or that original
6 submitter? And I'm not talking about the really old
7 letters. I'm thinking about Subpart CC in particular,
8 to notify them that there's been an amendment or a
9 clarification, whatever that might be.

10 MR. MCKENZIE: We will attempt to send a
11 letter back to the requester at the very least when we
12 have especially archived the letter or amended it.

13 MR. RIVERA: Okay. Thank you.

14 MR. MCKENZIE: So far I think most of them
15 have just come back. You know, it's a 30-year-old
16 letter. Probably not still working.

17 CHAIRMAN STAFFORD: All right, thanks. Any
18 other questions or comments?

19 (No response.)

20 CHAIRMAN STAFFORD: Dean, thank you very
21 much.

22 Christine, we're going to move on to you
23 until -- if Dr. Michaels comes, Christine, we may have
24 to do an adjustment.

25 MS. BRANCHE: I understand. Mr. Chairman,

1 colleagues, it's a pleasure to have the opportunity to
2 update you on some of the activities going on at NIOSH
3 as they relate to construction.

4 There was a question earlier about the
5 national stand-down and an app that Ron Sokol asked
6 the question. There are some resources that we've
7 made available on the NIOSH website and they're also
8 available through CPWR that OSHA has not been able to
9 post on their website. The infographics that are
10 listed here depict a number of things in, we think, a
11 very helpful way as they relate to construction falls,
12 and so we encourage people to consider going to our
13 website or CPWR's website in order to see those.

14 There was a publication that came out
15 earlier this month, yeah, earlier this month on fall
16 prevention. The editor is Dr. Hongwei Hsiao, who is
17 in NIOSH's Division of Safety Research, and a number
18 of your colleagues were also authors of chapters.
19 Scott Earnest and I are also authors. It's been a
20 really good opportunity. Topics include research on
21 slips, trips, and falls; the sciences of human falls
22 and injury risk; practical applications of prevention
23 and protection tools; and methods in industrial
24 sectors and home and communities. Authors and topics
25 hale from non-occupational as well as occupational

1 sources. I encourage you to consider this particular
2 text, not just because I'm trying to sell a book,
3 because I'm not earning anything from it.

4 First printed in 1978, the NIOSH Pocket
5 Guide to Chemical Hazards is NIOSH's singular most
6 popular document, single most popular document, and a
7 new app for it was released earlier this year,
8 unveiled at the industrial hygiene meeting in
9 Baltimore. The app gives our audiences who are
10 interested in the topic an even easier source for this
11 very important document.

12 Not yet available but quite anticipated will
13 be the NIOSH noise measurement app. I was hoping that
14 I could tell you that it's out. I know there are
15 several people in the room who are greatly
16 anticipating its release, but it is not yet ready.
17 The app will contain basic information on noise and
18 hearing loss prevention, including a built-in --
19 rather, excuse me -- including sound levels using
20 built-in or external microphones and it will report
21 the instantaneous sound level in A, C or Z weighted
22 decibels. The app will report proper occupational
23 noise arrangements and then will also share and save
24 measurement data and will use GPS to provide noise
25 measurement locations. So it is supposed to be all

1 that and a bag of chips once it's available.

2 CHAIRMAN STAFFORD: Christine.

3 MS. BRANCHE: Yes.

4 CHAIRMAN STAFFORD: Is this a good spot
5 where we can have you --

6 DR. MICHAELS: I'm going to interrupt you
7 for a minute.

8 MS. BRANCHE: Oh.

9 CHAIRMAN STAFFORD: Okay. I said I'm sorry.
10 I knew that was going to happen.

11 DR. MICHAELS: I knew they'd let you start,
12 then I'd come in here.

13 MS. BRANCHE: No, everybody was looking up
14 and I thought, oh, wow, they're so excited to hear
15 what I'm saying.

16 DR. MICHAELS: And I'm not going to stay
17 long, but I want to just come up here sort of in
18 between things. I actually just got back from an oil
19 and gas meeting in Houston, which was a great meeting.
20 I really just came up because this is probably the
21 last time I'll be able to see all of you in my
22 professional capacity as head of OSHA, although I
23 don't think it will be the last time I see any of you.

24 But I just want to first officially welcome
25 our two new members. Andrew, nice to have you on

1 here, and Ron, an old friend and a very active safety
2 and health person. It's great you're both on this
3 committee and the reappointments. Cindy, Palmer, and
4 where is Steve? Oh, there you are. There. Okay, I
5 didn't see you in the corner there. Great.

6 And, you know, I came here to thank you.
7 This has been a great committee. We have gained so
8 much from you from, you know, the seven plus years
9 that I've been working with you, you know, from the
10 discussions we had seven years ago and you had before
11 about residential fall protection and all the safety
12 stand-downs and all the various standards that we put
13 through and certainly the silica standard and the fall
14 prevention stand-downs, the work that you all did on
15 temporary workers, particularly in the construction
16 industry. I see Tom there is really a key to this.

17 You know, all these issues we worked on
18 which were -- you know, when we began and we said will
19 you be able to do this and what's going to happen, and
20 they've all really been very successful, and I can't
21 thank you enough. Pete, you've chaired this
22 fabulously. I know your contribution really has been
23 huge.

24 And so I just came, I don't want to
25 interrupt Christine because her work is so important,

1 and, you know, fortunately yesterday I was speaking to
2 1,000 oil and gas safety people with John Howard and,
3 you know, we have no better partner than NIOSH, and
4 it's really been a great collaboration in this. The
5 way we work in this committee is one example of that.
6 So anyway, I just really came to thank you.

7 A couple things are coming up in the future.
8 You all were very helpful on the safety and health
9 program publication which will be out very soon is my
10 understanding.

11 CHAIRMAN STAFFORD: Yeah, Dean stole your
12 thunder on that a little earlier.

13 DR. MICHAELS: Okay, that's okay. Well,
14 it's his thunder, not mine. And he probably told you
15 about our safe workplace and sound business campaign,
16 or if he didn't he should, but as part of that we're
17 launching a campaign where we're asking different
18 organizations, employers, unions, trade associations,
19 you know, the ASSE is already involved, AIHA and a
20 bunch of big trade associations, essentially saying,
21 look, we think every employer should have a safety and
22 health program. It doesn't have to be ours. You
23 know, we have one that we're recommending. The
24 National Safety Council has a "Journey to Safety
25 Excellence". You know, there's the ANSI standard,

1 ANSI-Z10. There are lots of them around. It doesn't
2 make a difference which one you choose, but you have
3 to choose one because that's the way you'll protect
4 your workers.

5 Anyway, so that's my very brief message to
6 interrupt you and to interrupt Christine. But it just
7 seemed like a great opportunity to come up here and
8 get to see you all and thank you all. So I don't know
9 if anyone has any questions.

10 CHAIRMAN STAFFORD: Does anyone have any
11 questions? First, David, let me say as chair, you
12 know, it's been great to work with you and your staff
13 here. I think that although there's some frustration
14 over time and as we try to get things through, but I
15 think you're right. I think with this committee, with
16 your leadership, that we've been successful in the
17 program standard. As Dean said, it was actually put
18 up today, I believe. I haven't officially seen it
19 yet. It was tremendous and I know that's something
20 that, you know, was very near and dear to you, so we
21 appreciate your leadership on that, and it's been a
22 pleasure to work with you.

23 DR. MICHAELS: Well, and really I feel that
24 way about all of you, and, Lisa, you've stepped into
25 this as the attorney for this committee I think in a

1 great way and we're really grateful for everything
2 you've done as well.

3 CHAIRMAN STAFFORD: All right. Well,
4 thanks. Any --

5 DR. MICHAELS: So I expect -- you know, my
6 plans from here, I'm going to move a couple miles down
7 the street. I'll have an office on 23rd and, you
8 know, K, on Washington Circle. I'll be teaching
9 environmental occupational policy. I plan to stay
10 involved in advocating for safe workplaces, and I look
11 forward to working with all of you in getting there.

12 CHAIRMAN STAFFORD: All right, that's great.
13 We appreciate it. Any questions or comments?

14 (No response.)

15 CHAIRMAN STAFFORD: Well, Dr. Michaels,
16 again, thank you. It was great.

17 DR. MICHAELS: Well, thank you so much. I
18 apologize for interrupting.

19 (Applause.)

20 MS. BRANCHE: Again, I thought all that
21 animation had to do with me, but it was not.

22 But speaking of partnership, earlier in the
23 fall OSHA, NIOSH, and MSHA partnered together to issue
24 a safety -- excuse me -- a noise safety challenge.
25 Here and now is the time to think about how you can

1 design technology that reduces work-induced hearing
2 loss, and a panel of judges selected the 10 best ideas
3 that were presented and invited the creators to pitch
4 their ideas to a group of investors and judges at the
5 noise safety challenge event that occurred at the end
6 of October, and so we're really looking forward to the
7 three projects that will make for these new innovation
8 in hearing loss prevention.

9 I've mentioned to this committee before our
10 work with the U.S. Green Building Council and the LEED
11 pilot credit. LEED is the Leadership in Energy and
12 Environmental --

13 CHAIRMAN STAFFORD: Design.

14 MS. BRANCHE: -- Design. The LEED pilot
15 credit continues to be the one that has to do with
16 prevention through design, continues to be something
17 that catches the staff at the U.S. Green Building
18 Council quite by surprise. Since it was formally
19 issued in July of last year, July of 2015, over 600,
20 over 650 LEED education subscribers have completed the
21 webinar, have completed their CEU credits, and over 29
22 projects globally have registered for the pilot
23 credit. About half of them are -- actually a little
24 fewer than half were in the United States. Most of
25 them are abroad, ranging from western Europe to Qatar,

1 or Qatar I think is the way you're supposed to say it.

2 The one project that I know of that has
3 completed and used the pilot credit was certified LEED
4 Platinum. So we're very surprised and pleased with
5 how well the uptake with the pilot credit is going on.
6 Two additional webinars are supposed to be posted. I
7 think I said that to you the last time I spoke with
8 you about it, but we've been working with the U.S.
9 Green Building Council to get those postings
10 completed.

11 CHAIRMAN STAFFORD: Christine?

12 MS. BRANCHE: Yes.

13 CHAIRMAN STAFFORD: You know I love you, but
14 we're going to have to interrupt you again real
15 briefly.

16 MS. BRANCHE: No problem.

17 CHAIRMAN STAFFORD: Okay. So, yes, do it
18 now.

19 MS. BRANCHE: What are we doing?

20 CHAIRMAN STAFFORD: We're going to take a
21 picture.

22 (Pause for photos.)

23 CHAIRMAN STAFFORD: Find your seats again,
24 please. Thank you.

25 (Pause.)

1 CHAIRMAN STAFFORD: Okay. Christine, I
2 promise that will be the last interruption.

3 MS. BRANCHE: Don't make such promises you
4 can't --

5 CHAIRMAN STAFFORD: If you in the back can
6 find our seats, please, or step out in the hall or
7 just be quiet would be helpful. Yeah, that would be
8 appreciated. George and Pete, that includes you.

9 Christine, please. I'm sorry.

10 MS. BRANCHE: No apologies are needed. Can
11 you still hear me?

12 CHAIRMAN STAFFORD: Yes.

13 MS. BRANCHE: Okay. Earlier this month Dr.
14 John Howard, Scott Earnest and I published a
15 commentary in the *American Journal of Industrial*
16 *Medicine* on the nail gun standard that was issued last
17 year. The title of our commentary is "The New ANSI
18 Nail Gun Standard, A Lost Opportunity for Safety", and
19 while we put forward a science blog when the standard
20 was first -- when the revised standard was first
21 published in the spring of 2015, we have put together
22 an additional science blog to accompany the
23 publication of this commentary, and we're disappointed
24 in the revised standard and we say so and we provide
25 our reasons for our disappointment in the article and

1 in the blog. The blog is available at NIOSH's website
2 and it does have a link directly to the publication.

3 Nanotechnology, I'm presenting some
4 information about nanotechnology because many of
5 you've heard me say that, you know, the construction
6 industry ends up being the guinea pig for a number of
7 things. Nanotechnology is one of them.

8 And so this new nanotechnology guide was
9 released in the spring of this year by NIOSH. It's
10 intended to help small- and medium-sized business
11 owners with supplying them with the tools necessary to
12 develop and implement a written health and safety
13 program to protect their employees and others when
14 they're working with nanotechnology. It provides
15 information on recognizing and controlling potential
16 hazards and risks from the nanotechnology -- sorry --
17 nanomaterial process that may adversely impact worker
18 safety and health, and so the document is written and
19 is available at our website.

20 In addition, there was a publication earlier
21 this year that talks about engineered nanomaterials
22 and provides a timeline of a number of important
23 milestones in nanotechnology and in NIOSH's attempts
24 to understand it and understand the implications for
25 workers.

1 If you were not aware, the U.S. Consumer
2 Product Safety Commission issued a proposed -- excuse
3 me -- a notice of proposed rulemaking for portable
4 generator emissions. This is a topic that the NORA
5 Construction Safety -- what is it -- NORA Construction
6 Sector Council, excuse me -- heard about about two
7 years ago. We've been interested and we think the
8 industry should be interested in portable generators
9 because of their prolific use in the industry and
10 because of the potential for carbon monoxide
11 poisoning.

12 The notice of proposed rulemaking and the
13 information about it is available at CPWR -- sorry --
14 CPSC -- too many acronyms -- the U.S. Consumer Product
15 Safety Commission's website. How 'bout that?

16 Motor vehicle crashes are an important
17 topic, especially in the work that I had before I came
18 to NIOSH, but it's important to remember that motor
19 vehicle crashes, any movement by vehicles in the
20 construction industry also adds to the numbers that we
21 see across the United States, and the United States is
22 actually the only high-income economy for which motor
23 vehicle crashes continue to be a very large cause of
24 death and injury in the United States. And so even
25 though the crash rate has materially dropped, it's

1 important to keep our attention on this topic, and
2 NIOSH and others worked with the CDC Foundation in
3 issuing information for employers in their business
4 pulse publication earlier this year.

5 Moving swiftly. NIOSH has now made
6 available a database on engineering controls. It's
7 available on our website. It contains descriptions of
8 controls effectiveness summaries and schematics of
9 engineering control technology that's been evaluated
10 by NIOSH during laboratory and field investigations.
11 It's a handy guide that's available to you and anyone
12 else if they're interested.

13 Earlier this year NIOSH issued a renewed or
14 updated criteria document on heat and hot
15 environments. In this revision, it includes updated
16 information on heat-related illnesses, risk factors
17 affecting heat-related illnesses, physiological
18 responses to heat, the effect of clothing on heat
19 exchange, and recommendations for control and
20 prevention.

21 Speaking of heat, we have a climate change
22 publication. Climate change is real. It includes
23 information on ambient -- increased ambient
24 temperatures, air pollution, ultraviolet radiation
25 exposures, extreme weather, vector-borne illnesses,

1 and the expanded habitats that climate change can make
2 for those vectors, as well as changes in the built
3 environment.

4 At NIOSH you've often heard us talk about
5 research to practice. That's still important. But
6 based on some information and some encouragement by
7 the National Academies of Science, we've been
8 encouraged at the institute to learn more about how we
9 can take the information from our research, translate
10 it so that it's ready for practice. So there's now a
11 new translation research program working in tandem
12 with our research to practice program because you just
13 have one more thing to worry about. So it's an
14 important piece, but I'm trying to not make you do too
15 much inside baseball, but I think you should know that
16 that this is something that's going on.

17 If you want handy information on many of our
18 programs at NIOSH, we have program performance one-
19 pagers that are available on our website.
20 Construction is the one that's depicted here poorly in
21 this particular image, but for anything ranging from
22 agriculture, forestry and fishing to prevention
23 through design through our Center for Motor Vehicle
24 Safety. In these one-pagers, we tell you about our
25 priorities, what we're doing, what we've accomplished,

1 and what we anticipate to be our next steps. They
2 really are pretty handy.

3 If you did not know, let me be the first to
4 tell you about an upcoming conference in Denver in
5 October of next year on small businesses. The
6 conference is expected to focus on understanding how
7 small enterprises can turn worker well-being and
8 sustainable business ideas into reality. The themes
9 of the event are occupational safety and health and
10 well-being, diversity, the business case, and public/
11 private partnerships.

12 CHAIRMAN STAFFORD: All sectors, not just
13 construction?

14 MS. BRANCHE: Not just construction, all
15 sectors. Thank you, Pete.

16 But in the construction sector, I've been
17 working with -- actually, it's an idea that I explored
18 first with Kevin Cannon, and I really appreciate his
19 help, as well as Carl Heinlein, Sue Dong, and Eileen
20 Beaty at CPWR, Mike Fredabell, and Steve Roselbacher,
21 who is with NIOSH's Center for Workers' Compensation
22 Studies -- in designing a webinar that really explains
23 insurance in the construction industry basically to
24 researchers but to anyone else. There are a lot of
25 assumptions that researchers make that insurance is

1 the one nut we need to crack to be able to get the
2 data that we've always wanted to have and have not
3 been able to get. But it isn't quite that simple, and
4 so we're trying to use this webinar series to explain
5 in small parts, small bits how this works out.

6 So we've designed a seven-part series that
7 will begin on Thursday, January 19. More information
8 will be forthcoming and publicized widely. But we're
9 very excited that William Noonan, who's the head of
10 construction and large and complex accounts, he's also
11 the executive vice president for North America
12 Construction with Willis Towers Watson. So we're very
13 excited to have him as our first speaker, and more
14 details will be available soon. Yes?

15 MR. MARRERO: I'm sorry. Tom Marrero,
16 employer rep. With that, will there be anything
17 related to workers' comp?

18 MS. BRANCHE: Yes.

19 MR. MARRERO: Yes.

20 MS. BRANCHE: One of the webinars in the
21 series will deal specifically --

22 MR. MARRERO: Okay.

23 MS. BRANCHE: -- with workers' compensation.

24 MR. MARRERO: Okay.

25 MS. BRANCHE: Okay. Robotics, this is a

1 topic that has been of interest, I think, not only to
2 all industries but to construction for quite some
3 time, and NIOSH has been working in this area since
4 actually and showing some interest in this area since
5 the early 1980s.

6 Earlier this year in the *Journal of*
7 *Occupational and Environmental Hygiene* Dr. Howard and
8 Frank Hearl, many of you know Frank Hearl, and Vlad
9 Murashov, who's the first author, published a review
10 article as well as a NIOSH science blog on robotics,
11 their increasing presence in the workplace, the fact
12 that they're more complex, there's more interaction
13 with humans in robotics, and providing case reports of
14 deaths and injuries as it concerns robotics in the
15 workplace.

16 NIOSH's first publication was actually in
17 1985 talking about preventing injuries of workers by
18 robots and then another publication talking about the
19 safe maintenance guidelines for robotics in the
20 industry.

21 Applications for robotics are actually
22 fairly robust and prolific. This slide shows some of
23 the different robotic applications. On this slide,
24 hazardous environments, manufacturing, hospitals, as
25 well as drone use, and in this slide healthcare,

1 military, transportation, construction, and
2 agriculture. There's a web link on our website, and
3 actually listed here in this slide, that portrays --
4 it's a video of a bricklaying robot to show you some
5 newer applications.

6 Exoskeletons come in both powered and non-
7 powered designs. The HULC-powered one is on the left
8 in this particular image and it's a military
9 application. The MANTIS or I-HAS is a non-powered
10 system and it's here depicted on the right. I'm not
11 trying to do product endorsement, but I do want to
12 work my way into a specific application as it concerns
13 construction other than the video to which I just
14 alluded.

15 The idea of these exoskeletons is to create
16 mobile and mechanical load transfer system prototypes,
17 and for the one that's non-powered, the battery and
18 hydraulics have been removed with the three HULC units
19 with some other relatively minor design changes.
20 Lockheed Martin produced this Multi-Attachment Non-
21 Tethered Industrial System -- that's where the acronym
22 for MANTIS is derived -- for lower extremity
23 exoskeletons.

24 Now, based on the research that Lockheed
25 Martin has done, these non-powered systems have been

1 noted to improve productivity and quality and the
2 reduced strain and fatigue experienced when used by a
3 worker. As a researcher, I'm concerned that it may
4 seem like, you know, the new gee-whiz pow-bam, but I
5 think we should be cautious. I wouldn't want this to
6 go the way of the back belt, and I've said that
7 openly, and I have no problem sharing my concern.
8 It's a great device potentially, but we need more
9 work.

10 Many people have talked about their work
11 with the U.S. military but have provided very little
12 research findings to be able to support that. I've
13 talked to two of the manufacturers, and when I asked
14 about the research as it concerns safety and health,
15 one told me with hands waving, "Oh, it's all out
16 there," but failed to give me any information. And
17 the other was very open and said, "Look, we'd like to
18 work with NIOSH to be able to create that research to
19 be able to show how worker safety and health is
20 affected."

21 So this information here is actually from
22 the U.S. Navy where they -- it's a list of documented
23 information from some of their technical reports on
24 exoskeleton safety issues. The comments range from
25 arm travel should be limited to prevent workers from

1 losing balance due to torque from the tool and arm to
2 minimize trip hazards from foot designs, especially on
3 stairs and ladders. And I'm showing this simply to
4 depict that quite a bit of information -- excuse me --
5 quite a bit of research still needs to be underway.
6 We are in a position to learn a lot from the U.S.
7 military.

8 So far we've been involved with and actually
9 we've been in a position to prompt better
10 communication among the branches of the military.
11 Each of them have made some investments in robotics
12 and exoskeletons in particular. Most of their
13 applications have been in field operations where for
14 military purposes but also in rehabilitation. We're
15 trying to work with them to understand what they've
16 learned, what we can draw from their research to be
17 able to understand how that can be applied to worker
18 safety and health and specifically in construction.

19 And I say that because the one company that
20 has asked us to work with them, they have quite a bit
21 of rehabilitation applications, but in this case, this
22 slide shows images of a ship where they're doing
23 overhead work where it puts a lot of strain on the
24 body. They have applications for grinders, sanders,
25 drills, impact guns and welding. Some of the workers

1 using these devices in the application with the U.S.
2 Navy didn't want to give up the device, but we need
3 more research to make certain that we understand that
4 it isn't just, again, the newness of it, the novelty
5 of it. We want to make certain that over time that
6 what appears to be something that's a time-saving, a
7 fatigue-saving device doesn't end up causing problems
8 in ways that we had not anticipated them.

9 But some of the claims, some of the claims,
10 I'm going to be careful to call them claims, not
11 research, shows that you can lift 36 pounds
12 effortlessly, reduce muscle fatigue by 300 percent,
13 and increase work rate by two to 27 times.

14 And then lastly, I think lastly, yes, I'm
15 going to talk about the third decade of NORA. I know
16 I mentioned this before. There are 10 sectors and
17 seven cross-sectors, and the sectors and the cross-
18 sectors now have equal weighting. We are creating or
19 compiling sector councils for now the seven cross-
20 sectors.

21 The NORA Construction Sector Council has
22 been meeting and actually continues to lead the way in
23 many respects as it concerns what sector councils are
24 expected to do. This is education for people who have
25 not been familiar with the National Occupational

1 Research agenda or how sector councils are supposed to
2 run. But as a reminder, they are for exchanging
3 information, forming partnerships, and enhancing
4 dissemination and implementation of research findings.

5 The second decade of NORA, which for
6 construction was quite a successful decade, it
7 formally ended on September 30. We opened up the new
8 decade on October 1, and several of the sector
9 councils have been meeting, but the Construction
10 Sector Council has already begun to compile a list of
11 draft topics that we think should appear on the
12 agenda, the research agenda for this third decade of
13 NORA. We will be posting that for people to comment,
14 but we will also be hosting webinars so that people
15 can, stakeholders can comment widely on that draft
16 agenda. A public comment period is envisioned and a
17 state of the science meeting will occur in the summer.

18 The last new information I want to share
19 with you is that, and I caught this mistake earlier
20 today, I apologize for it, it should be NIOSH
21 Construction, Mining, and Oil and Gas Program
22 Collaboration.

23 With a change in leadership with NIOSH's
24 mining program, I'm pleased to say that they
25 approached us about trying to collaborate. The mining

1 program, those dear souls, have been reluctant to work
2 with us. There's a lot that goes on in mining that
3 has application to construction. That wouldn't be
4 news to anyone here on this committee. But what I
5 think what's news to our construction -- sorry -- our
6 mining and oil and gas colleagues is there are a lot
7 of things that happen in construction research that
8 have application to mining. And so now they're asking
9 for that collaboration and we're working on that,
10 scheduling some meetings even now, and I'm hoping that
11 at the next opportunity that I have to update you that
12 I'll have some information to share about that.

13 And then just as a reminder for my
14 colleagues at OSHA, you wouldn't have a stand-down if
15 it weren't for NIOSH and the NORA Construction Sector
16 Council, and so it has been a wonderful venture and we
17 are looking forward to continuing to work with you.
18 Thank you.

19 CHAIRMAN STAFFORD: Thanks, Christine.

20 Any questions or comments?

21 (Applause.)

22 CHAIRMAN STAFFORD: Cindy?

23 MS. DePRATER: Cindy DePrater, employer rep.

24 Christine, on the, if I can find the page
25 here, the noise app.

1 MS. BRANCHE: Yes.

2 MS. DePRATER: How are we going to -- how
3 are you all going to assure that there are disclaimers
4 about the calibration of the using a hand-held
5 instrument to make sure that people don't just take
6 that verbatim? Does that make sense?

7 MS. BRANCHE: It does make sense. With
8 almost anything that we do there certainly are
9 disclaimers, and based on what I'm familiar with with
10 the ladder app we try to be, you know, humble about
11 our claims and not overstating what it can do, and
12 anything that we do has to go through our attorneys as
13 well, so I'm actually imagining that the delay in
14 posting and making available the app has to do with
15 those very things.

16 And so other than I'm not the researcher
17 who's responsible for this, but I can certainly take
18 that back to make certain that we are -- it may delay
19 it a little bit while we are doing that, but I'm sure
20 that there will be appropriate disclaimers about --
21 how do I want to say this -- being very careful about
22 how the app is used and the fidelity that you can
23 assure.

24 MS. DePRATER: Right. Okay.

25 MS. BRANCHE: That's pretty much been our

1 standard operating procedure. That's why I'm not
2 concerned about that.

3 MS. DePRATER: I'm excited about this, I'll
4 tell you that, but I think it just needs to make sure
5 that people don't use it as the gospel.

6 CHAIRMAN STAFFORD: All right, thank you.
7 Steve?

8 MR. HAWKINS: Steve Hawkins, state plan
9 representative.

10 I had the same question really that Cindy
11 had. I just wondered, Dr. Branche, if you knew if
12 the -- so in the early days of this discussion about a
13 noise app and how reliable was the equipment --

14 MS. BRANCHE: Yes.

15 MR. HAWKINS: -- you know, that's available
16 for the iPhone or an Android, I just wondered if you
17 had any knowledge or knew at all -- that concern must
18 have been overcome to some degree because you've moved
19 forward this far with that app. So, I mean, is the
20 error rate, is it like 1 percent or 25 percent? And,
21 you know, the phones are much -- I mean, they'll do a
22 lot more now than when we were first having this
23 discussion a couple years ago.

24 MS. BRANCHE: Right.

25 MR. HAWKINS: Just didn't know if you had

1 any knowledge about how that was overcome or has it
2 mostly been overcome, or how accurate do we think the
3 noise level applications are?

4 MS. BRANCHE: I know what's written down
5 here and there's been pressure for -- people have
6 asked NIOSH to produce an app from the time that the
7 first ones became available that were not produced by
8 our institute. I don't -- I can't speak to the
9 specifics that you just requested, but I know that
10 part of the delay in NIOSH making public and going
11 forward with an app was because we wanted to make
12 certain that we got it right. I don't mean to make it
13 sound just like something you see or hear on
14 television and just advertise it.

15 MR. HAWKINS: Right.

16 MS. BRANCHE: But the scientist who is
17 responsible for this and the developer with whom
18 they've been working for the app want to make certain
19 that people can go out in the field in almost any
20 place and be able to use it and have some degree of
21 confidence that it's going to work and that it's going
22 to have a measurement that while not with pinpoint
23 accuracy is -- it gets you in not just the right
24 ballpark but in the right lane, a little bit more
25 narrow than that. And I apologize that I can't speak

1 to it with any more accuracy than that, with any more
2 detail than that, but I know that when the app is
3 available I know I've talked to several people who are
4 among our stakeholders gathered with us together
5 today, and they're extremely excited about this app,
6 and I'm pretty confident that there will be a science
7 blog and probably an opportunity not just for fanfare
8 but for interaction with the science team that's put
9 this together.

10 One thing I can do is I can ask that we have
11 like a webinar that will allow people to ask
12 questions, if not have a pretty detailed frequently
13 asked questions document about this. But there's been
14 quite a bit of excitement about the app, so I'm
15 expecting that if they don't have plans for that
16 immediately they will pretty quickly. But I'll go
17 back and I'll ask that we provide some detailed
18 opportunity for people to get information (a), but
19 also potentially interact with the research team.

20 MR. HAWKINS: You know, even the devices
21 that we used for compliance that we issue citations on
22 have a margin of error, and so I think it's like 2 db
23 maybe, and so, you know, even that has a margin of
24 error, and so you would think an app could know which
25 phone it was being used on and then know the quality

1 of the microphone or whatever. I mean, you could
2 believe that this could work and get, like you said,
3 in the right lane, not in the ballpark, but, you know,
4 on the right base path or whatever stadium we think
5 we're in.

6 But, I mean, I would really think this could
7 make a big difference, and I'm thinking that it's
8 going to be much like the new silica standard which
9 says do this for this type of work and you don't have
10 to bring in an industrial hygienist to quantify your
11 exposure if you're going to perform your work in this
12 particular manner. And with a device like this, if
13 you're going to measure and you're getting a rating of
14 80, we know that this is plus or minus 5 db, then you
15 know that 80 with this particular phone that you have
16 a high degree of certainty that you're not overexposed
17 to noise at that level.

18 MS. DePRATER: Cindy DePrater, employer rep.

19 That's the concern is, you know, hearing
20 loss is a chronic issue and what you don't want to see
21 is 10 years down the road that somebody does, their
22 hearing is diminished, that they come back and say,
23 well, show me the test results around this work that I
24 was doing, and then you have to go back and be able to
25 validate that and say, well, I was using the iPhone

1 with this application. That's the concern that we
2 have in terms of not having the true dosimeters with
3 calibrated instruments.

4 I still like this. There are dosimeters out
5 there, applications right now, and we will use those
6 just to do an initial measure, and if it ranges
7 between a certain area, then we go get the actual
8 dosimeters and measure the actual calibrated noise.

9 MR. HAWKINS: You know, I'm still amazed
10 that as a Tennessee country boy who uses hearing
11 protection all the time, like chainsaw, tractor,
12 lawnmower, weed eater, everything, I'm just, I'm
13 amazed that we're still having this conversation. You
14 would think truly that workers would just want to
15 use -- that you wouldn't have to tell somebody to do
16 this.

17 I mean, a lot of things you have to tell
18 people to do, but this one, the comfort level is so
19 different and the physiological effects of being
20 exposed to noise energy are -- you know, you can just
21 feel a lot better at the end of the day if you wore
22 hearing protection even beyond just what it does to
23 keep your ears from ringing on your way home. You
24 would think that this would be an area where we would
25 really have a high degree of compliance, and yet you

1 still -- I keep a box in my truck and when I travel
2 around and I see somebody mowing or weeding or doing
3 something, I just walk over and give it to them, and
4 you'd be surprised. Some of them, honestly, they
5 don't even know what it is. And so that and safety
6 glasses, I have a supply of cheap safety glasses and
7 earplugs.

8 So I think it's great that we use this app
9 and NIOSH can push it and we can say this is something
10 official and even with whatever the error rate is. I
11 think it'll help us, you know, in the big picture. So
12 thank you for that, Dr. Branche.

13 MS. BRANCHE: Thank you for your questions,
14 and again, I'll go back and take this.

15 CHAIRMAN STAFFORD: Thanks.

16 Any other questions or comments?

17 (No response.)

18 CHAIRMAN STAFFORD: Christine, I think your
19 warning about the exoskeletal and not all jump off
20 board about the technology is certainly warranted, and
21 I think a lot of us are -- the back belt experience in
22 this industry. Are you suggesting that that's an area
23 that's going to be a target of future research for the
24 NIOSH program?

25 MS. BRANCHE: Absolutely. Absolutely. The

1 whole notion of robotics is one that, at Dr. Howard's
2 encouragement, admonishment, we've gone back and built
3 a team of our researchers to take on the notion of
4 robotics. A report is being prepared even as I speak.
5 So there's robotics. It has, you know, broad
6 implications across many industries, but this notion
7 of the exoskeleton is of particular interest in
8 construction.

9 We were invited, and Wayne Creasup made an
10 opportunity for NIOSH and several of the building
11 trades to see a demonstration by one of the
12 exoskeleton manufacturers, the very one that wanted to
13 work with NIOSH to do some research. I really
14 appreciate the fact that that particular manufacturer
15 is wanting to fill that void so that we have a better
16 understanding from a musculoskeletal and any other
17 perspective that's available to understand how these
18 devices perform and interact with the human system
19 time and time again.

20 Again, the first time I tried one on, it was
21 great, but that was one time and it was the first
22 time. What happens when you continually use them?
23 What happens when you feel better about interfacing,
24 doing a particular task and you do it for a longer
25 period of time? That may increase the opportunity for

1 the worker to not have to take as many -- sorry -- may
2 make for the worker not having to take as many breaks,
3 but what happens when a worker doesn't pay attention
4 to their normal body signals? What are they doing to
5 overcome when your body said "I've had enough"? And
6 are you paying attention to those signals? That's my
7 chief concern about exoskeletons.

8 We're learning a lot, like as I said, with
9 our interface with the U.S. military prior to my
10 request to know what they've been doing. They were --
11 each of the branches of the military was doing their
12 own research without any interaction, but I'm happy to
13 say that based on some questions that I asked, now
14 they've got -- you know, all of the branches are at
15 least interacting more frequently, and they've invited
16 NIOSH to be able to participate.

17 I think we can learn a lot from how in field
18 use, field use means when they're thinking about using
19 robotics and exoskeletons in particular in actual
20 military use, what happens based on the research that
21 they're doing, and they're doing quite a bit of
22 research in this area.

23 But I think I don't want to say that I'm
24 optimistic or pessimistic. I just want to see what's
25 going on, and I think even though there is excited

1 anticipation of how they can be used in construction
2 the researcher in me wants to just wait and see.

3 CHAIRMAN STAFFORD: Thank you.

4 Any other questions or comments for
5 Christine?

6 (No response.)

7 CHAIRMAN STAFFORD: Thanks, Christine, and I
8 apologize for the interruptions.

9 MS. BRANCHE: Please don't apologize.

10 (Applause.)

11 CHAIRMAN STAFFORD: Okay. Well, we're in a
12 position we've gone through our three public speakers.
13 We could take a break or we can go ahead and get
14 through the public comments and call it a day. I'll
15 leave it up to the Committee on what your pleasure is.

16 MALE VOICE: Do public comment and make it a
17 day.

18 CHAIRMAN STAFFORD: Public comment and call
19 it a day. All right, then that's what we'll do. Let
20 me have your super-duper list, Damon.

21 MR. BONNEAU: I've got three. It looks like
22 three.

23 CHAIRMAN STAFFORD: Okay. Caroline,
24 where -- there's Caroline. You are first on deck.

25 MS. GUGLIELMO: All right. I didn't know I

1 was going to get to speak today. I was waiting for
2 tomorrow.

3 Well, good afternoon, everyone, and my name
4 is Caroline Guglielmo. Several positions I've held
5 with the National Association of Home Builders and the
6 Director of Safety for the Associated General
7 Contractors of America during the Clinton and first
8 Bush Administration, and then I worked for NIOSH for
9 the Face program doing fire fighter fatality
10 investigations. Pretty ugly stuff. And worked down
11 in the trenches with employers around the State of
12 West Virginia.

13 And, first of all, I wanted to thank you for
14 all the work that you guys have done over the last few
15 years, and I see that we're going to have a change in
16 administration, and something that the Clinton
17 Administration had started was reforming OSHA, and
18 part of that was creating the Directorate of
19 Construction because at the time, back in the '90s,
20 OSHA and the construction industry was rather
21 adversarial and construction companies don't want to
22 hurt their workers.

23 As you guys know, we have a lot of
24 production and we have a lot of labor issues coming
25 up. We've had a decrease in skilled laborers. We

1 have a lot of Hispanics and Eastern Europeans doing
2 construction, and I know that a lot of you may be
3 replaced in the next year, and I'm hoping that we
4 start focusing again on negotiated rulemaking like we
5 did with SENRAC and cranes.

6 When I left Washington in 2002, we were
7 working on cranes. It's 2016. It's a long time to be
8 working on a crane standard.

9 Something else is a lot of the building
10 trades and also the construction industry and OSHA
11 decided that they would form alliances and
12 partnerships. The construction health and safety
13 excellence program that was negotiated in the last
14 days during Clinton and during Bush that were not
15 carried out the last eight years, and it's so, so
16 important for government, industry, and the trades to
17 work together. We have a huge undertaking the next
18 four years to rebuild our infrastructure, our water
19 waste treatment facilities, our airports, whatever
20 happened in Flint, Michigan, could happen anywhere.

21 So I'm hoping that this committee will
22 really focus again on negotiated rulemaking to update
23 some standards. Also would like to see some alliances
24 and partnerships again in place because they were
25 working and they were working down in the various

1 states as far as Michigan, Wisconsin, Seattle, Idaho.
2 All of those, we made great strides, and it would be
3 great again to see government, labor, and industry
4 working together to decrease falls and take a look
5 back on steel erection as well. We have not done
6 that. So just something to think about in the next
7 couple years. Thank you.

8 CHAIRMAN STAFFORD: Thank you, Caroline, for
9 your comments.

10 Beth O'Quinn.

11 MS. O'QUINN: Good afternoon. I'm Beth
12 O'Quinn, Vice President, Specialized Carriers and
13 Rigging Association. I just had a couple quick
14 questions about the cranes and derrick standard.

15 As everybody has stated, it's been at least
16 18 months since the last language has been presented
17 to the Committee, and I wrote down a response, and I'm
18 not sure if I understood it correctly, so I just
19 wanted to ask the Committee. I believe when Mr.
20 Hickman asked about if type and capacity was going to
21 be in the language that's going to OMB Mr. McKenzie's
22 response was yes, but you've already seen that
23 language. So my question is, has this committee seen
24 revised language since 2015?

25 CHAIRMAN STAFFORD: The answer is no. We

1 saw and deliberated about the proposed language at the
2 time and we gave our recommendations and DOC has gone
3 back with those recommendations, has not come back to
4 this committee with what we've suggested, so we have
5 not seen that.

6 MS. O'QUINN: Okay. Is that something that
7 is anticipated will come back to the Committee, or is
8 it just going directly to OMB?

9 CHAIRMAN STAFFORD: Well, I'm --

10 MS. O'QUINN: I know you can't speak for the
11 Directorate but procedure.

12 CHAIRMAN STAFFORD: Well, I'm going to --
13 I'll yield to the lawyer and to my Designated Federal
14 Official, but my assumption is based on Dean's
15 response to my question is that no, the language is
16 going to go to OMB soon and it's not coming back to
17 this committee for review.

18 MS. O'QUINN: Okay.

19 CHAIRMAN STAFFORD: And I'm happy to be
20 corrected by anyone who can correct me.

21 MR. KAMPERT: That's correct. That's the
22 process. It's presented to ACCSH, we take the
23 recommendations and then move forward, you know, with
24 the proposed rule, which, like Dean said, is headed
25 towards OMB.

1 CHAIRMAN STAFFORD: Correct? Legal.

2 MS. WILSON: Yes, that's correct, and after
3 it goes through the review process it will be
4 published as a proposed rule, correct, and then will
5 be available for public notice and comment.

6 CHAIRMAN STAFFORD: So we won't see it again
7 as a committee, Beth. There are some of us that have
8 an interest in it on our own organizations when it
9 gets to that point. We obviously may comment as a
10 part of the public process but not as ACCSH.

11 MS. O'QUINN: Right. So we just -- SC&RA is
12 part of a coalition for crane operators' safety, and
13 that includes -- I'd like to just, for those that are
14 new to the committee, just go through the acronyms
15 really quick because if I go through the entire names
16 it will take at least 10 minutes. So it's AEM, AGC,
17 Operating Engineers, Iron Workers, MBIS, NCCER, NCCCO,
18 OECP, and SC&RA, and we've all met, had a call and
19 just wanted to kind of go on record our concern that
20 this, you know, for all intents and purposes seems to
21 be getting kicked -- the can just keeps getting kicked
22 down the road.

23 I know there was a response that there are
24 mechanisms in place should it not be done by the
25 implementation date of November 2017. So that was our

1 concern when we first discussed the first extension
2 for three years. So we just want to keep that as
3 something in front of ACCSH in case it does get
4 extended again, that this is an extremely important
5 aspect of the cranes and derrick standard and we just
6 ask that you continue to keep it at the forefront.

7 CHAIRMAN STAFFORD: Okay, I appreciate that.

8 MS. O'QUINN: Thank you.

9 CHAIRMAN STAFFORD: And so all of those
10 acronyms, I recognize most of those. That is a group
11 that has done what now?

12 MS. O'QUINN: They all came together once
13 the language came out for employer qualification and
14 crane operator certification because we all mutually
15 had a concern at the language that it was going to be
16 detrimental to the industry. So we decided rather
17 than each one of us individually with our own
18 organizations combat and try to help effect change on
19 the language, that we would come together and show a
20 united front for the industry, and it's not just one
21 lone organization sitting out there saying, hey, we
22 don't agree or our members cannot work with this
23 language.

24 CHAIRMAN STAFFORD: Okay. Thank you, Beth,
25 for clarification.

1 MS. O'QUINN: Okay. Thank you.

2 CHAIRMAN STAFFORD: Any --

3 MS. O'QUINN: Any questions?

4 (No response.)

5 CHAIRMAN STAFFORD: Thanks, Beth.

6 MS. O'QUINN: Thank you.

7 CHAIRMAN STAFFORD: Matthew Shaw?

8 (No response.)

9 CHAIRMAN STAFFORD: Scott Schneider, you've
10 been raising your hand all day and you're not on the
11 list. Do you not want to say anything?

12 MR. SCHNEIDER: No, I do.

13 CHAIRMAN STAFFORD: Okay. Matt, please.
14 Thank you.

15 MR. SHAW: Hi. My name is Matthew Shaw.
16 I'm the program coordinator for regulatory affairs and
17 test development with the National Commission for the
18 Certification of Crane Operators.

19 I just wanted to kind of reiterate the
20 comments just a moment ago about the industry concern
21 on the feasibility of completing the rulemaking
22 process for the operator certification requirements in
23 Subpart CC. I think there's a lot of concern related
24 to how close we are to the effective date of November
25 of next year and all the things that need to fall into

1 place need to be completed for that to be revised and
2 an actual new rule reviewed by OMB, public comment
3 periods, potentially multiple ones, potentially
4 multiple hearings as well. There seems to be a
5 concern that it just won't get done in time.

6 So just want to reiterate that concern. And
7 also a question that the industry has, I think it's
8 important for maybe OSHA to address well before the
9 November date is, you know, what will happen if we
10 reach the November 2017 date, the effective date for
11 operator certification, and OSHA does not extend the
12 date or issue some sort of enforcement policy? What
13 will happen at that point?

14 CHAIRMAN STAFFORD: Okay, Matt, yeah, I
15 appreciate that, and your and Beth's comments I do
16 appreciate, but I think that, again, you know, in
17 terms of the issue of third-party certification and
18 training and type and capacity are issues that this
19 committee has already dealt with. We've provided our
20 recommendations to OSHA. We've done our due diligence
21 as a committee. The agency has no obligation to come
22 back to us now. They're going to propose a rule, and,
23 you know, the questions both you and Beth are asking,
24 are concerned about I think we understand and agree,
25 but they're really not questions that this body can

1 answer. Those are really questions for OSHA at this
2 point. So I just want to be sure that we're clear on
3 that.

4 MR. SHAW: Thank you.

5 CHAIRMAN STAFFORD: Thanks.

6 MR. SHAW: Thank you for the opportunity to
7 speak.

8 CHAIRMAN STAFFORD: Okay, thank you.

9 Scott Schneider.

10 MR. SCHNEIDER: Scott Schneider with
11 Laborers, and I apologize for not signing up earlier,
12 but the questions came up during the discussion and I
13 thought I just wanted to add a little bit. One of
14 them is on the excavations issue.

15 About 15 years ago I co-chaired a NACOSH
16 work group on excavation safety and we put together
17 recommendations, Greg Strudwick and I, and I will make
18 that available to the Committee and to OSHA just so
19 that you can review it instead of re-inventing the
20 wheel. I mean, we had some, you know, pretty
21 interesting discussions. I think they were very
22 productive. So I will make that available to the
23 Committee and to OSHA.

24 The second thing I wanted to mention is is I
25 did talk to the NIOSH scientist yesterday who was

1 working on the app and what he said was at first it's
2 only going to be available for the Apple products, for
3 the iPhone because they are much more reliable in
4 terms of the measurements that they got. So they are
5 looking at the reliability. And the Android products
6 right now are all over the map. There are so many
7 different ones they couldn't get, you know,
8 reliability with those products right now, so right
9 now it's only going to be for the Apple products.

10 And the other thing that he did send me is
11 they published a paper last month that showed that if
12 you are using a smart phone and you add an external
13 mike, which are relatively inexpensive, like \$15 or
14 so, that the reliability increases tremendously plus
15 or minus 1 db. So you can get really accurate
16 readings by adding a small external mike.

17 And the last thing I wanted to mention is I
18 was talking to Dean about this, I think the stuff that
19 Mohammed Ayub did on the website on collapses is
20 really important, it's really useful. But what I
21 think would make it really useful, much more useful is
22 to create sort of an animated video showing what
23 actually happens. We did this in the Roadway Safety
24 Alliance with fatalities and road construction.
25 They're like three two-, three-minute videos. And, of

1 course, the ones the Chemical Safety Board has done
2 have been very, very useful, and I think if OSHA has
3 the resources or could do it to create a video story,
4 and NIOSH has been doing this too with some of the
5 Face reports, create a video story looking at the
6 collapses and how they happen it would be really
7 helpful for training purposes. So I don't know if
8 that's something that you want to -- it could be
9 passed along to them.

10 CHAIRMAN STAFFORD: No, I appreciate that.

11 MR. SCHNEIDER: So anyway, those are my
12 suggestions.

13 CHAIRMAN STAFFORD: That's valuable. Yeah,
14 Christine and then Steve.

15 MS. BRANCHE: Christine Branche, NIOSH.

16 I'll get a copy of the paper and submit it
17 to the Committee or get it to the Committee. And then
18 as the concerns, just a clarification, those Face
19 reports that have been made into videos were done by
20 the states.

21 MR. SCHNEIDER: Right.

22 MS. BRANCHE: Or done by CPWR in conjunction
23 with NIOSH.

24 CHAIRMAN STAFFORD: Thank you. Steve Rank?

25 MR. RANK: Steve Rank with the Iron Workers.

1 Hold on, Scott. Hi.

2 I'm glad you raised the structural collapse
3 again and the fact that you're looking in more today
4 to what's causing them, but the real question is is
5 how are you going to fix it, and this very issue of
6 structural collapse came up during the negotiated
7 rulemaking that the previous lady addressed during
8 SENRAC, and we found out that a substantial amount of
9 fatalities were due to structural collapse: anchor
10 bolts, insufficient concrete strength, double
11 connections. These things have been engineered out,
12 Scott, and those trends have completely dropped off
13 the face of the map since 2001 because we knew they
14 were there and we had a fix and the agency worked with
15 us through negotiated rulemaking. We had employers
16 and labor people come in to say we have to stop this,
17 okay? And it has stopped.

18 So I want to encourage this, to keep going
19 forward on structural collapse and negotiated
20 rulemaking. I think it's the best recipe to get
21 stakeholders, whether you're dealing with cranes,
22 structural steel erection, excavations, whoever, is to
23 get to experts at the table to work with the agency to
24 figure out how you make that a black-and-white
25 standard, and it's certainly worked good for the steel

1 erection industry. Thank you.

2 CHAIRMAN STAFFORD: Thank you, Steve.

3 Any other questions or comments?

4 (No response.)

5 CHAIRMAN STAFFORD: Okay. Well, if there
6 are no other, we're going to -- I'm sorry, Lisa, go
7 ahead.

8 MS. WILSON: Hi. Thank you. I'd just like
9 to enter the exhibits from this afternoon. I would
10 designate the presentation on the DOC update as
11 Exhibit 1 and the presentation on the NIOSH update as
12 Exhibit 2. Thank you.

13 CHAIRMAN STAFFORD: All right, thanks, Lisa.
14 We'll go ahead and adjourn and we will reconvene
15 tomorrow morning at 9 a.m. Thank you. Thanks,
16 everyone.

17 (Whereupon, at 3:00 p.m., the meeting in the
18 above-entitled matter recessed, to reconvene at 9:00
19 a.m. the following day, Thursday, December 1, 2016.)

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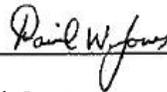
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REPORTER'S CERTIFICATE

DOCKET NO.: None
CASE TITLE: Advisory Committee, Construction
Safety and Health
HEARING DATE: November 30, 2016
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the U.S. Department of Labor, Occupational Safety and Health Administration.

Date: November 30, 2016



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