

DEPARTMENT OF LABOR  
ACCSH ADVISORY COMMITTEE MEETING

Thursday, July 18, 2019

Frances Perkins Building  
200 Constitution Avenue, N.W.  
Room N-5437  
Washington, D.C. 20210

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## ATTENDEES:

KEVIN R. CANNON (Chair), Senior Director  
Safety and Health Services  
Associated General Contractors of America

FRAVEL E. COMBS, Corporate Manager EH&S  
M.A. Mortenson Company

CINDY DEPRATER, Senior Vice President  
Chief Environmental Health and Safety Officer  
Turner Construction Company

GREG SIZEMORE, Vice President of Health, Safety,  
Environment and Workforce Development  
Associated Builders and Contractors

WESLEY L. WHEELER, National Director of Safety  
National Electrical Contractor Association

## EMPLOYEE REPRESENTATIVES:

CHRISTINA TRAHAN CAIN, Safety and Health Director  
North America's Building Trades Unions  
Executive Director CPWR - The Center for Construction  
Research & Training

PALMER L. HICKMAN, Director of Safety and Code Training  
and Curriculum Development  
Electrical Training Alliance

RANDALL A. KROCKA, Administrator  
Sheet Metal Occupational Health Institute Trust  
International Association of Sheet Metal, Air, Rail &  
Transportation Workers

MARK S. MULLINS, National Coordinator  
Elevator Industry Work Preservation Fund

RICHARD TESSIER, Director of Safety  
United Union of Roofers, Waterproofers & Allied Workers  
Research & Education Joint Trust

## PUBLIC REPRESENTATIVES:

CHRISTOPHER A. FOUGHT, Global Construction & North  
America Contractor Safety Manager  
General Motors, LLC

R. RONALD SOKOL, President/CEO  
Safety Council of Texas City

## STATE REPRESENTATIVES:

CHRISTOPHER (SCOTT) MABRY, Assistant Deputy  
Commissioner  
North Carolina Department of Labor Occupational Safety  
and Health Division

CHARLES N. STRIBLING, OSH Federal-State Coordinator  
Kentucky Labor Cabinet  
Department of Workplace Standards

## FEDERAL REPRESENTATIVE:

G. SCOTT EARNEST, Deputy Director and Program  
Coordinator  
Office of Construction Safety & Health  
CDC-NIOSH

## COMMITTEE CONTACTS:

SCOTT KETCHAM, Designated Federal Official  
Directorate of Construction  
U.S. Department of Labor-OSHA

ERIC KAMPERT, Alternate Designated Federal Official  
Office of Construction Services  
Directorate of Construction  
U.S. Department of Labor-OSHA

JOSEPH GILLILAND, ACCSH Counsel Office of the Solicitor  
U.S. Department of Labor

DAMON S. BONNEAU, ACCSH Coordinator  
Office of Construction Services  
Directorate of Construction  
U.S. Department of Labor-OSHA

VENETA CHATMON, ACCSH Travel Coordinator  
Directorate of Construction  
U.S. Department of Labor-OSHA

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

2 MR. CANNON: All right, we're going to call  
3 the meeting to order. Before we get into the agenda,  
4 we're going to start with introductions, and I'll start  
5 with Scott to the right.

6 MR. KETCHAM: Scott Ketcham, Designated  
7 Federal Official.

8 MR. MULLINS: Mark Mullins, Employee  
9 Representative.

10 MR. WHEELER: Wes Wheeler, Employer  
11 Representative representing National Electrical  
12 Contractors Association.

13 MR. SOKOL: Ron Sokol, Public Representative.

14 MR. FOUGHT: Chris Fought, Public  
15 Representative.

16 MR. SIZEMORE: Greg Sizemore, Employer  
17 Representative.

18 MR. MABRY: Scott Mabry, State Representative.

19 MR. STRIBLING: Chuck Stribling, representing  
20 the State Safety (inaudible) Agencies.

21 MR. EARNEST: Scott Earnest, Federal  
22 Representative with NIOSH.

1           MR. COMBS: Fravel Combs, Employer  
2 Representative.

3           MR. HICKMAN: Palmer Hickman, Employee  
4 Representative.

5           MR. KROCKA: Randy Krocka, Employee  
6 Representative.

7           MR. TESSIER: Rich Tessier, Employee  
8 Representative.

9           MS. CAIN: Chris Cain, Employee  
10 Representative.

11          MS. DEPRATER: Cindy Deprater, Employer  
12 Representative.

13          MR. GILLILAND: Joey Gilliland, ACCSH counsel.

14          MS. FLETCHER: M.K. Fletcher, CPWR.

15          MR. ROCKSEN: Bruce Rocksen, reporter of  
16 Bloomberg Law, Bloomberg BNA.

17          MR. STEVANUS: Hi. Ken Stevanus from the  
18 Directorate of Standards and Guidance.

19          MR. KALINOWSKI: Doug Kalinowski, the  
20 Directorate of Cooperative and State Programs.

21          MR. PERRY: Bill Perry, Directorate of  
22 Standards and Guidance.



1           MS. FOLEY-HERING: Lynn Foley-Hering, Matrix  
2 North American Construction out of New Jersey.

3           MR. HERING: Bill Hering, Matrix North  
4 American Construction. I'm also here representing the  
5 Association of Union Constructors and the National  
6 Maintenance Agreement Policy Committee here in  
7 Washington today.

8           MR. SAUNDERS: Mike Saunders, Balfour-Beatty,  
9 safety director.

10          MR. HEAD: Don Head, Regional Safety Manager,  
11 DPR Construction.

12          MR. SVENSON: Jen Svenson, OSHA Directorate of  
13 Construction.

14          MR. KAMPERT: Eric Kampert, OSHA Directorate  
15 of Construction.

16          MR. CULLIGAN: Christian Culligan, National  
17 Association of Home Builders.

18          MR. LEE: Good morning. Joey Lee, OSHA  
19 Alliances.

20          MS. GIDDINS: Sharease Giddins, OSHA Outreach.

21          MR. TINDALL: Nick Tindall, Association of  
22 Equipment Manufacturers.

1           MR. JONES: Hi, Walter Jones, Laborers Health  
2 and Safety Fund.

3           MR. PARSONS: Good morning. Travis Parsons,  
4 Laborers Health and Safety Fund.

5           MR. EWING: Good morning. Brian Ewing, OSHA  
6 DOC.

7           MR. DAMON: Good morning. Damon, OSHA DOC.

8           MS. JAMESON: Gretta Jameson, OSHA, OOC.

9           MR. CANNON: All right. And just for our  
10 attendees, I just want to remind you to sign in in the  
11 attendee booklet, and if you're interested in making  
12 public comments, sign that book as well.

13           MR. CANNON: We have a pretty full agenda  
14 today, but before we get into our agenda, we have one  
15 order of business that we have to revisit from  
16 yesterday, and that involves the motion that was made.  
17 So I'll turn it over to Joey so he can explain.

18           MR. GILLILAND: Okay. In yesterday's meeting,  
19 Member Sizemore made a motion that OSHA move forward  
20 with the proposed rule presented today with regards to  
21 PPE and fit. The form of the motion, for purposes of  
22 the record, should be that ACCSH recommends that OSHA

1 move forward with the proposal.

2 So if Mr. Sizemore would like to restate his  
3 motion, then we can vote on it again. That motion was  
4 seconded by Member Cain.

5 MR. SIZEMORE: All right. So to restate the  
6 motion -- Greg Sizemore, Employer Representative --  
7 propose regulatory text from NPR 1926.5 that OSHA move  
8 forward to designate and select employer, must ensure  
9 that all personal protective equipment: (1) is safe and  
10 designed for construction work to be performed; and (2)  
11 is selected to ensure that it properly fits the  
12 affected employee.

13 MR. GILLILAND: And it's in the form that  
14 ACCSH recommends.

15 MR. SIZEMORE: Okay, I'll do that again. Greg  
16 Sizemore, Employer Representative. ACCSH recommends  
17 that OSHA move forward with the proposed regulatory  
18 text from NPRM for 1926.95, design and selection,  
19 employer must ensure that all personal protective  
20 equipment: (1) is of safe design and construction for  
21 the work to be performed; and (2) is selected to ensure  
22 that it properly fits each affected employee.

1 MR. CANNON: We need a second.

2 MS. CAIN: Second.

3 MR. CANNON: All right. We debated the issue  
4 pretty good yesterday, so I'm going to ask if there is  
5 any further discussion, but I don't expect it.

6 (No response.)

7 MR. CANNON: All right. All in favor?

8 (Chorus of ayes.)

9 MR. CANNON: Opposed?

10 (No response.)

11 MR. CANNON: All right. The motion carries.

12 And for the record, we had to also make a note that it  
13 was unanimous. Yes.

14 All right. So now we'll get into the agenda.  
15 We have our first speaker here, Doug Kalinowski,  
16 director of the Directorate of the Cooperative and  
17 State Programs. He's going to provide us with an  
18 update.

19 MR. KALINOWSKI: Good morning.

20 MR. CANNON: Good morning, Doug.

21 MR. KALINOWSKI: Most of you probably don't  
22 know this, but I served on this committee -- it had to

1 be somewhere between 12 and 15 years ago, and I'm sure  
2 glad they kind of raised the standards now, so to know  
3 you're here. So I appreciate that.

4           So I will give you a brief update on what's  
5 going on in the Directorate of Cooperative and State  
6 Programs. I'm not going to touch on everything we do.  
7 I'll just touch on some of the things we have moving  
8 forward.

9           Just to remind everybody, what we do in the  
10 Directorate of Cooperative and State Programs, we have  
11 five offices: one that deals with partnerships and  
12 recognition, which is either VPP or partnership  
13 programs. We have an Office of Outreach Assistance and  
14 Alliances, which deals with compliance assistance in  
15 all of our alliances. We have an Office of State  
16 Programs that oversees the -- helps coordinate and set  
17 policy for oversight of the 28-state OSHA programs. We  
18 also have an Office of Small Business Assistance which  
19 oversees the Onsite Consultation Program. And we also  
20 have an Office of International Affairs which  
21 coordinates many of OSHA's international travel and  
22 interactions with other countries. Or when other

1 countries come here and bring delegations and want to  
2 interact with OSHA and other parts of the Department of  
3 Labor, that office coordinates those activities as  
4 well.

5           First, I'll talk a little bit about the  
6 Alliance Program. If you look at -- OSHA has --  
7 actually, we have about nearly 40 national alliances at  
8 a national level and somewhere around over 200  
9 alliances either in the regional or area offices. And  
10 the real purpose of the alliance is about building  
11 relationships and sharing information.

12           Some of the initiatives -- and you're probably  
13 going to hear about these, either you have yesterday or  
14 you will tomorrow -- that we work on in our offices is  
15 Stand Up for Grain, Work Zone Safety Awareness, Young  
16 Workers -- I'll talk a little bit about that -- Fall  
17 Prevention Stand Down, which I'm sure you're all  
18 familiar with -- Heat Stress, Trench Safety, and Safe  
19 and Sound Week.

20           Even though many of these are led by other  
21 directorates, the Directorate of Cooperative and State  
22 Programs facilitates our interactions with our alliance

1 partners, our partner partners, our state plans, and  
2 our consultation programs to keep them involved as well  
3 in all of these initiatives that OSHA has.

4           One of the things, just an example, one that  
5 deals with young workers. So this year we created a  
6 Safe Summer Jobs Campaign working with -- strongly with  
7 our Office of Communications with posting things on  
8 Twitter, Facebook, creating a blog, Instagram.

9           And really the goal of this whole program is  
10 to get to the youth workers, the teen workers, before  
11 they actually hit the workplace. Because how many of  
12 you worked as a teenager and some of the things you did  
13 back then you had no clue that they were unsafe or  
14 unhealthy.

15           And the real goal is to get to these people to  
16 at least create an awareness and let them know that  
17 they also have rights to say something and ask  
18 questions about what they are doing. So that's one of  
19 the initiatives we have going and just started this  
20 year.

21           Our alliance is really about creating positive  
22 relationships, and I said there's national, regional,

1 and area offices. They are typically with trade  
2 associations. And it's about building trust, too. And  
3 I know that many of you, whether it's Kevin and I love  
4 -- and that Trotsky (phonetic) can pick up the phone  
5 and call me, call Scott, and not think twice, right,  
6 and ask questions and not have any concerns, and so  
7 could Chris. And we work very closely with CPWR to --  
8 in an alliance as well. In fact, we just signed our  
9 renewal yesterday afternoon with CPWR.

10 But there are a number of associations. Our  
11 goal, long-term goal, is to work with the groups that  
12 are -- don't already have the relationship with OSHA,  
13 right, they don't already have that. And there's some  
14 out there, right, or some that we've lost a  
15 relationship with, and build that trust again and share  
16 information.

17 And OSHA sends out information, and you've  
18 probably heard already about QuickTakes, which has over  
19 250,000 recipients. But a lot of times people get  
20 something from OSHA and they're nah, it's just another  
21 ad, et cetera. Or if I send something out to people it  
22 may not get the same attention as if the association



1 that has paying members receives something about a new  
2 guidance document that may deal often with  
3 construction, those members are more likely to open it  
4 up, take a look, and pay attention. So that's one of  
5 the things that the alliances we have are very  
6 effective.

7           Some of the things -- some of the results  
8 we've had -- across OSHA over 1,500 dissemination  
9 activities, maybe webinars and things of that nature,  
10 impacting 9 million people. Billboard space, and it's  
11 amazing how many people see billboards as they drive  
12 down the road, except maybe North Carolina because I  
13 think North Carolina has some ban on billboards. If  
14 you drive the highways there, you don't see too many  
15 billboards, really. You see a lot of green.

16           We also do 200 events and training activities  
17 through the Alliance Program. And the other thing, it  
18 goes both ways too, because a lot of the people we deal  
19 with, whether it's robotics, lasers, OSHA has staff  
20 that goes out and deals with these issues all the time,  
21 and all of our OSHA CHSOs or the consultants that are  
22 out there in the field trying to help small businesses,

1 they're expected to understand everything from  
2 hospitals to foundries to operations of a restaurant,  
3 right. They're expected to know everything and  
4 understand everything, and a lot of times they get  
5 involved in unique situations, or not just that unique,  
6 but aerial lifts. We have an alliance that -- with an  
7 aerial lift group, and they help train CSHOs and some  
8 of the unique operations around their industry, and  
9 that's also very helpful. So it goes both ways. So  
10 the Alliance Partners help train our own staff across  
11 the country.

12           And so we're trying to improve things, and we  
13 always do as we move forward. And it's not just about  
14 having -- and historically or in the last several  
15 years, some of the emphasis on the Alliance Program was  
16 creating compliance systems documents, right. And  
17 we're trying to -- and those are good and those are  
18 useful, and typically when we have an alliance in OSHA  
19 some of the people in DCSP, they're the facilitators,  
20 but we involve people from Scott's group and from  
21 enforcement programs as our subject matter experts,  
22 okay.

1           And so some of the things we're trying to get  
2 to is focus more on the relationship building and turn  
3 the alliances over at times too, some of the ones.  
4 Once you build the relationship, years ago we had a  
5 relationship with National Association of Homebuilders  
6 and we have one to this day that continues, but we  
7 don't have an alliance with them anymore, okay.

8           And we've got some -- OSHA only has so many  
9 resources, and so the goal is you build the  
10 relationship, and assuming it's successful, you can  
11 keep that relationship without necessarily a formal  
12 alliance that has lots of paperwork involved, et  
13 cetera.

14           And we're trying to limit the amount of  
15 paperwork we have and things of that nature and work  
16 more towards building relationships and sharing  
17 information over the long term. So that's what we're  
18 trying to move forward with.

19           And some of the things we do is we create  
20 speaking opportunities. You could have an association  
21 meeting somewhere or a labor meeting somewhere in North  
22 Dakota and you need a speaker. We could facilitate

1 those interactions, a local area director or maybe a  
2 regional administrator from that area to come speak at  
3 a local conference or a local event. And we can  
4 facilitate all those things about building those  
5 relationships, because really the relationships happen,  
6 even though they happen on a national level, they  
7 really get successful at the local level.

8           And I won't talk too much about this, and many  
9 of you all -- you should be aware that there are 28  
10 state OSHA programs too are represented here today.  
11 Twenty-two of those are comprehensive and they cover  
12 private and state and local government; six only cover  
13 state and local government.

14           The most recent addition was Maine, and I know  
15 there's interest in other states like Montana,  
16 Massachusetts. There's been discussions about creating  
17 more primarily state and local government programs.

18           Right now, state plans are funded. The  
19 expectation, if you don't know, in the OSHA Act, is you  
20 can have a state program; it has to be at least as  
21 effective as OSHA, and that is a challenge defining  
22 that, if you haven't heard that before.

1           And the other thing, the monitoring happens in the  
2 regional offices. The Office of State Programs, we set  
3 the policy, but they have to do the monitoring and try  
4 to find consistency across all of the 10 regions and 22  
5 states, and that's really our goal. And there is an  
6 annual evaluation called the FAME, the Federal Annual  
7 Monitoring Evaluation; there's a comprehensive one  
8 that we perform every other year, and if there are  
9 issues around the state program we have a number of  
10 activity measures we look at, and are they doing the  
11 inspections that they said they were going to do that  
12 year; things like that.

13           So every other year there is a comprehensive  
14 one. In the off years there's a interim evaluation  
15 where they're really at findings and observations from  
16 the more comprehensive version. And there's annual  
17 reports. If you look at that web connection, you can  
18 get to the state plans, you can get to all those annual  
19 evaluations are online. All the connections, if you  
20 wanted to talk to someone in a state plan, those are  
21 all there as well.

22           State plans are expected -- the other thing I

1 should add, if you don't already know, they're expected  
2 to fund no less than 50 percent of the program.  
3 Congress has a line item, and it's about 104 million, I  
4 think, at this point, for state plans. But actually,  
5 state plans overmatch by like \$90 million. States like  
6 North Carolina and Oregon and Washington overmatch by  
7 very large percentages to maintain the staffing.

8           The other thing I'll talk a little bit about  
9 is the Onsite Consultation Program. In 2018 they  
10 conducted -- this is a program designed and funded by  
11 Congress at around \$59 million to provide onsite  
12 consultation to small-to-medium size businesses, the  
13 ones who really don't have the resources to hire safety  
14 and health professionals. And by small to medium,  
15 we're talking about 250 persons per site, 500  
16 corporate.

17           And the requirement, the expectation, is they  
18 only do consultations and 90 percent of their  
19 consultations are done in those smaller, high-hazard  
20 businesses.

21           Twenty-six thousand consultation visits were  
22 conducted nationwide in 2018. Eighty-eight percent of

1 those were in businesses under a hundred, and it  
2 affected 3.1 million workers, and the annual savings to  
3 the economy has been calculated at \$1.3 billion per  
4 year.

5           And where did that come from? Without getting  
6 into detail, and you can find this online -- the full  
7 report as well as a one-page summary -- this came with  
8 the help from the economists at the Directorate of  
9 Standards and Guidance.

10           Several years ago, my staff tried to figure  
11 out, "How do we make these calculations?" And one of  
12 Bill Perry, who's up next, his staff, his deputy  
13 actually, said, "We have people that could probably  
14 help you make those calculations."

15           And without going in the details, too many  
16 details, they looked at three different models to make  
17 calculations on the benefits to the economy -- safety  
18 and health programs, hazards removed, and what happens  
19 if there's an inspection, and what are the savings to  
20 both work -- because this isn't just a direct savings.  
21 These are both direct and indirect savings.

22           You have savings to workers. If a worker is

1 off on workers comp, that workers comp is not covering  
2 all of their costs, the same costs they would have had  
3 if they are working, right. They're not making the  
4 same amount of money, so they have to make up for that  
5 somewhere along the way.

6           There's also workers comp savings and also  
7 indirect savings to employers, if you have to hire  
8 replacement workers, et cetera. And all those  
9 calculations have been all evaluated and, like I said,  
10 Bill's economists, who make calculations around  
11 standards -- like what's the cost of a standard, what's  
12 the savings of a standard -- those same economists help  
13 work on this and actually do an analysis.

14           It was reviewed by the people in the  
15 Department of Labor's evaluation section. It was  
16 reviewed by some economists at a conference, and they  
17 put this together.

18           And the calculation comes out to savings to  
19 society, right, and this is per year based on the  
20 improvements made through all the consultations, is  
21 about \$1.3 billion for the \$16 million that Congress  
22 spends.



1           And the states that -- it's in all states plus  
2 a couple of territories, so there are 52 programs  
3 across the country at 59 million. They have to match  
4 at least 10 percent, so it's a 90/10 program, no less  
5 than that at this point in time.

6           So like I said, so it's actually been very  
7 successful. We're trying to look at other things. Too  
8 bad we didn't have every program within OSHA where we  
9 could evaluate what's the cost-benefit to the country.  
10 And I just -- within OSHA within every federal program.

11           And we also have another office, the Office of  
12 Partnerships and Recognition. A lot of the work, the  
13 vast majority of the work, deals with the Voluntary  
14 Protection Program, which many of you are aware of,  
15 which is really recognizing the best of the best.

16           And I'm going to step in here for a second  
17 because I don't have a slide for something else, but  
18 before I go on to VPP though, the other thing that OSHA  
19 has, which I apologize I didn't have this together yet  
20 to get -- quick enough to get this in the slides.

21           Besides VPP, this office also oversees  
22 partnerships that OSHA has with either groups or

1 specific employers. Right now, OSHA has one national  
2 partnership with the Electrical Transmission and  
3 Distribution Group. It started off about 12 or 15  
4 years ago because the fatality rates in that industry,  
5 basically all the people that build and service our  
6 power transmission, the fatality rates were just  
7 outrageous. One -- I don't know, but the odds of  
8 getting killed in that industry were tremendous.

9           So we formed a partnership with about five or  
10 six of the major employers that work in that group as  
11 well as NIKA\*and others. IBEW is also involved in that  
12 partnership, is also a partner. We're now up to about  
13 somewhere around 18 partners covering 80 percent of the  
14 employees in that industry.

15           And these are all -- a lot of these employers  
16 are competitors, right, and how do you get them at a  
17 table and talk about safety and health? Because  
18 typically getting to the table, around the table, and  
19 they're more worried about getting the business and  
20 from that perspective.

21           But just like all of you, they can basically  
22 come around in safety and health, and over the years

1 now they'll be open to talk about things and between  
2 them. We'll have meetings where they'll talk about  
3 their near misses or their severe incidences, so they  
4 share that information. They have a website.

5           And one of the two biggest things I think  
6 involved in that is, number one, they have a commitment  
7 from their executives. Their CEOs meet no less than  
8 once a year to sit around at a table and say, "How do  
9 we deal with safety and health?"

10           And at this point in time there's about a  
11 dozen best practice documents that they've created over  
12 the years, and I think at this point in time we've got  
13 enough best practice documents. I mean, we know what  
14 that should be.

15           I think the next step is how do we try to move  
16 the culture, the culture of our first-line supervisors  
17 out in the field that it's okay not to -- it's better  
18 not to cut corners to get the job done and things like  
19 that.

20           And so I think the focus -- because the  
21 fatalities came down pretty low, and then I think last  
22 year there were eight fatalities in the industry, which

1 was -- it was down to two or three. I mean, obviously  
2 any one is too many. So we were up to about eight.

3 So they want to focus on back-looking at the  
4 fatalities and looking at culture and actually creating  
5 a 20-hour course unique, working with OSHA's -- or OTI,  
6 OSHA's Training Institute, to create a 20-hour course,  
7 focus on those supervisors and managers to change -- to  
8 help move the culture in that industry.

9 You guys are all familiar with the  
10 construction culture, and moving it is something you  
11 all have been working at it for years. And this is one  
12 we're focusing on with this one partnership.

13 We're also working on a partnership with the  
14 National Association of Tower Erectors. That is  
15 getting closer to the end -- to finalization, I should  
16 say. That didn't quite sound right -- to the end.

17 And we're also working on a partnership with  
18 the Protein Industry Group -- the poultry, pork,  
19 turkeys -- I guess that's part of poultry -- and beef.  
20 They've all come together with UFCW and OSHA to try to  
21 work together on a partnership agreement with about now  
22 25 or 30 sites and three regional offices involved as

1 well, to actually work together in a cooperative way,  
2 not necessary an enforcement way.

3 Rich Mendelson, the regional administrator in  
4 New York Region 2, made a comment once. He goes, "OSHA  
5 is not going to inspect our way into improving safety  
6 and health around this country. That's not the  
7 solution. It's about working together to improve  
8 safety and health."

9 So that's some of the partnerships we're  
10 working on. There are currently 78 active partnerships  
11 in the regional offices, regional partnerships; 69 of  
12 those are in the construction industry.

13 Many of you -- some of you may have been  
14 involved in those, and those really deal with  
15 construction projects, say building a stadium or  
16 building a new office building or working on a bridge,  
17 and those partnerships have typically been very  
18 successful where the groups, the building trades and  
19 all the subcontractors get together on a routine,  
20 typically a quarterly basis, and talk about the issues.

21 And sometimes there's informal walkarounds to  
22 look at safety hazards, but also part of those

1 partnerships it does not exempt them from, obviously,  
2 complaint inspections. It does not exempt them also  
3 from program inspections, because typically if a  
4 partnership spans 18 months, the partnership may say,  
5 "Hey, there's going to be three unannounced program  
6 inspections that are going to happen sometime during  
7 this partnership." So the enforcement is still there  
8 as well.

9           But theoretically -- or not theoretically --  
10 more than theoretically, I think if the partnerships  
11 are working real well, those enforcement inspections  
12 will not turn up that many hazards and violations. So  
13 I think it all comes down to resources, and we devote  
14 as many resources as we can both here in the national  
15 office and the field.

16           And the last thing I'm going to talk about  
17 here is VPP, the Voluntary Protection Program. There  
18 is nearly 1,400 VPP sites covering 800,000 employers  
19 and -- employees and contractors. We have almost 1,500  
20 special government employees. If you don't know what  
21 those are, those are employees from those VPP sites  
22 that assist OSHA in doing onsite evaluations.

1           OSHA typically -- somebody puts in the -- the  
2 standard practice is somebody fills out an application,  
3 submits it to OSHA, and then OSHA evaluates the  
4 application. The requirement is injured and illness  
5 rate are 50 -- are at or below the injury and illness  
6 average for their industry before they could even be  
7 considered for a three-year average. And then there's  
8 an onsite evaluation performed to say, "Hey, are you  
9 really talking the walk?" I guess you'd say there.

10           You really -- so they evaluate it, come up  
11 with a report, and if they -- if it becomes acceptable,  
12 they receive a flag, they're recognized as one of the  
13 best of the best, and they are exempt from program  
14 inspections for the time period they're in. Typically,  
15 on the front end, somebody initially in is in for three  
16 to five years, and then there's annual renewals every  
17 three to five years.

18           The largest region, Region 6, has the most VP  
19 sites in the country, and a good percentage of those  
20 are also PSM sites as well, which makes it extra  
21 challenging.

22           And the SGEs -- and most of these onsite

1 evaluations, of course, they go through a -- every year  
2 those sites have to submit an annual evaluation, a  
3 self-evaluation, to the regional office, and then every  
4 three to five years there's a re-evaluation or a re-  
5 approval process after the initial that continues, and  
6 OSHA goes back in and does the same kind of evaluation  
7 they did on the front end.

8           But for the most part, the majority of those  
9 onsite evaluations are led by one OSHA person, and it  
10 could be anywhere from one to five special government  
11 employees. These are people from other companies that  
12 volunteer their time, their resources, to assist OSHA  
13 in doing these onsite evaluations.

14           And why do people do that? And I think the  
15 feedback we get from employers is they do that because  
16 their people learn from others, right. They learn from  
17 the other sites.

18           So -- and even though the requirement is the  
19 injury and illness rates have to be at or below the  
20 national average for their industries, we calculate  
21 every year what it actually is, and VP sites are  
22 typically 50 percent or less of the national average



1 for their industries and not just at or below.

2           And almost all -- I think all the state  
3 programs have some version of VPP. Some are stronger  
4 than others. North Carolina -- Scott has probably more  
5 VP sites than any other state except maybe California  
6 ones that are so large - 101.

7           And we are also working to try to improve the  
8 VP Program. About 18 months ago we held a few  
9 stakeholder meetings. Oh, I guess the first one was  
10 almost two years ago here in the national office with  
11 about 120 people at an all-day meeting facilitated to  
12 say, "Okay, how can we make things different, how can  
13 we improve things?"

14           And some of the feedback we got was simplify  
15 the process, promote it more, increase OSHA's  
16 commitment to VPP, do a better job of collecting data  
17 and training staff.

18           And so what we're trying to do is streamline  
19 the application process. I mean, right now, if you  
20 looked down the line at OSHA's VPP program, what you're  
21 going to find is a multi-paragraph document that gives  
22 you guidance how to fill out an application, right.

1 There's not really a formal application process.

2           And we are getting -- so one of the things  
3 we've been working on for about the last eight or nine  
4 months is actually creating -- and you'd think it'd be  
5 simple; I thought it'd be simple -- creating an online  
6 application, right. And it isn't all that simple, but  
7 it's more -- it's getting -- it looks like it's simpler  
8 than I thought it was.

9           Because right now we have a -- right now we  
10 have a database that maintains -- a VPP database in the  
11 national office that historically was only used by the  
12 national office. Every region had their own database,  
13 and then they would send the information in, and then  
14 we'd re-enter information here in the national office.

15           Well, just the beginning of this past fiscal  
16 year, October 1st, we upgraded and updated the national  
17 office database to make it also a management tool for  
18 the field.

19           And so at this point in time, the field is  
20 using that same database online. So we don't have  
21 people at the national office entering data at this  
22 point. It's the field people entering the data, and

1 they can enter it real-time so that things are up to  
2 date. So we're actually using this what we call it  
3 VADS. I won't get into the acronym, but it's VADS.

4           So we use that database, and it's being used  
5 around the country and every region as well. I still  
6 suspect that maybe some region to have their own backup  
7 excel spreadsheets and things they're using to track  
8 their sites, but they're all using the national  
9 database.

10           And we've been working towards -- and actually  
11 a contract was awarded just a few weeks ago -- to  
12 actually create an online application form that will  
13 also -- so if I'm a site and I wanted to get into VPP,  
14 I go online and there's steps to walk through. We've  
15 already created the hard copy version, and so trying to  
16 get into the 20th century, I guess, creating an online  
17 application form.

18           And I think the best part of that is two  
19 things. Number one, it helps people because what we  
20 found, we did some evaluations and looking at things  
21 internally, over 60 percent of the initial applications  
22 of VPP needed a significant amount of work after they

1 came in.

2 Well, how much time does that take for  
3 somebody out in the region to go back to the site?  
4 It's a lot of work for the sites as well. We're hoping  
5 that, number one, the online application form will be  
6 more useful and guide people so that we're not at 60  
7 percent of needs -- still needs a lot of work, we're  
8 more at 20 percent still needs a lot of work.

9 And the second half of that, which is  
10 important for OSHA's efficiency, is this online  
11 application, which I was kind of blow away at when we  
12 talked to the contractors, it will feed into our own  
13 data system. It'll make calculations.

14 Because one of the things you have to have is  
15 50 percent or low -- below the -- not 50 percent --  
16 below or at the national average for your industry of  
17 injury and illness rates. That will make those  
18 calculations for you.

19 So if you're not even there and you're -- or  
20 if you haven't made the calculations correctly, it'll  
21 tell you sorry, red flags go off, don't send in this  
22 application.

1           So it actually feeds from -- the second part,  
2 it feeds into our own data systems so it saves our own  
3 staff a ton of time of having to entering data, whether  
4 it's the field staff or the national office staff.

5           And the feedback I got from the field folks  
6 was this will probably save them two or three weeks'  
7 worth of time over the course of year per person, which  
8 means that's two or three more onsite evaluations they  
9 can do without increasing any other resources. And the  
10 expectation is this database will be completed sometime  
11 during the next fiscal year, maybe as soon as the end  
12 of this calendar year. So, and that's phase one.

13           And phase two, as I told you, people have to  
14 submit an annual self-report. And this should be just  
15 as simple. Phase two will be creating, actually, an  
16 online self-report submission as well too, and that  
17 will feed right into the database, and that would save  
18 a huge amount of time as well.

19           And we've also revamped our training for OSHA  
20 staff and SGEs. We've created a team leader course so  
21 that when new people come onboard to VPP, our  
22 compliance system specialists out in the field, they

1 have to learn how to run a team.

2 Many of the people that the compliance systems  
3 folks out in the field that lead some of the VPP  
4 evaluations, they're qualified and highly skilled  
5 safety and health people that may have been CHSOs for  
6 10 years, but they still have to go learn what's VPP  
7 all about and how you lead a team as well. And so  
8 we're created with OSHA Training Institute a new team  
9 leader course.

10 We're in the process of updating our policies  
11 and procedures manual to reflect a number of memos  
12 we've issued over several years, recent years.

13 We're also looking at changing our corporate  
14 VPP program. Right now we have five members of five  
15 companies that are in corporate VPP, and originally  
16 that was created -- and I won't waste too much of your  
17 time, but that was originally created, I think, to  
18 streamline the process for the other sites in the  
19 corporation.

20 Like right now, General Electric is one of our  
21 corporate members, and at one point they had somewhere  
22 between 70 and 80 sites. And the thought was if you

1 had a corporate membership and each site was following  
2 the overall general principles of safety and health,  
3 that would streamline the evaluation at each individual  
4 site.

5           But I think what we found is when our field  
6 staff went out to evaluate the site, they spent still  
7 almost as much time on an individual site whether they  
8 were in corporate or not.

9           And I think what we're trying to look at now  
10 is changing the corporate to say, okay, if you want to  
11 be corporate, you can come in as a corporate  
12 application, but you've got to bring three sites in at  
13 the same time that you have figured out already should  
14 be qualified.

15           And the corporation and other parts of the  
16 corporation are supposed to mentor the other sites, and  
17 then they'll bring in sites in the future, but they're  
18 going to bring them in site-ready so we're not spending  
19 as much time of OSHA's and SGE resources. The  
20 corporations would be doing so.

21           And the one thing we're also trying to  
22 evaluate, which we get a lot of feedback on, is you

1 have ISO\* and OhSEM - OHSAS, and other -- National  
2 Safety Council. They all have their own safety and  
3 health programs, management systems in place. How does  
4 that fit in?

5           Because you run into somebody who says, yeah,  
6 I'm ISO. What's the latest one? 45,000 for safety and  
7 health? Okay, so I'm in that program. I'm not going  
8 to waste my time trying to fill out forms and get into  
9 VPP as well.

10           But there's lots of overlap across those  
11 programs, and so theoretically, if somebody was already  
12 in an ISO program, can that reduce the amount of time  
13 OSHA and the SGEs have to spend evaluating their  
14 overall VPP safety and health program?

15           And the department actually has a contract.  
16 It's not an OSHA contract. It's a department-level  
17 contract to evaluate how these other programs might  
18 dovetail into VPP and reduce some of the time.

19           And also, if somebody's in ISO, is that more  
20 inclined to get into VPP if they're going to reduce the  
21 amount of time and effort they have to spend to get  
22 into the VPP program?



1           At least I didn't run over. Did I?

2           MR. CANNON: No, no, you've still got eight  
3 minutes to spare.

4           MR. KALINOWSKI: All right. Well, I think I  
5 started early, so --

6           MR. CANNON: Thanks, Doug. A very good  
7 presentation. I just have one question on the  
8 alliances. And ADT (phonetic) has been involved in the  
9 roadway alliance for many years, and I think we've  
10 developed what I think are very good resources for  
11 roadway workers. But those resources aren't just for  
12 those within the alliance. We try to create those for  
13 wider use.

14           Do you guys track the downloads of the fact  
15 sheets or any of the material?

16           MR. KALINOWSKI: We can track and what we do  
17 track is website hits. So we also have an alliance  
18 website too. All the alliance products and information  
19 is there too. So we can track the website views and  
20 hits and things like that and how much time was spent,  
21 but we don't necessarily track the documents that are  
22 handed out and things, unless the Office of

1 Communications does. I don't think so.

2 I mean, the fact that there's local and  
3 regional conferences, and then they'll contact the  
4 national office and say, "Hey, can I get some of these  
5 documents to hand out as part of the conference?" And  
6 so they're used that way, but we don't track the  
7 numbers, Kevin.

8 MR. HICKMAN: Palmer Hickman, Employee  
9 Representative. Doug, a very informative presentation.  
10 I appreciate that, and I also appreciate the great work  
11 you do on ET&D partnership for OSHA.

12 Related to that, I appreciate you mentioning  
13 the partnership and a 20-hour. I really do think  
14 that's helping move the needle for culture change, and  
15 I think that's a big part of what needs to change.

16 I also wanted to mention -- so the rest of the  
17 world that's not part of the partnership because it's  
18 proprietary, I think, to the members, the two-and-a-  
19 half-hour Foundation for Safety Leadership that is in  
20 the OSHA 30, so it's a two-and-a-half-hour module that  
21 was developed for -- by CPWR with the Directorate of  
22 Training and Education, I think that's sort of a nice

1 tool that can be used outside of the 30 as well, Chris,  
2 if I'm not mistaken.

3 So it doesn't have to be used only in a 30, so  
4 it's a good way for the rest of the world to sort of  
5 get introduced to that leadership concept and how to  
6 change that.

7 The other thing I wanted -- this is a  
8 question, and you may not be able to discuss this. One  
9 of the things you mention in one of the partnership  
10 meetings was an initiative. It might've been this  
11 unique initiative up in Region 1, a pilot program. And  
12 a former electrician, Bobby Carbone out of Local 103, I  
13 think, is part of that. Is that something that you can  
14 discuss, or did I misunder-hear it when you mentioned  
15 it?

16 MR. KALINOWSKI: Yeah. I mentioned Jack  
17 Burskin (phonetic) who works in that region had talked  
18 about it, and I don't have enough details, but we can  
19 get more for you.

20 MR. HICKMAN: Thank you.

21 MR. WHEELER: Doug, thank you very much for  
22 your presentation and the information and your also

1 help with the partnership as well.

2           One of the other things I wanted to also  
3 mention in addition to the 20-hour supervisors training  
4 that the ET&D partnership does, one of the things that  
5 they've migrated to over the past few years is  
6 continuing education, where they now develop and  
7 deliver quarterly presentations for training to -- in  
8 addition to the OSHA ET&D 10-hour class that all the  
9 utility workers working in that industry do.

10           And again, commend you for the comments that  
11 basically the competitors that sit around that table  
12 have agreed that safety is not an issue that we're  
13 going to be competitive with; safety is for everybody's  
14 benefit so that everybody goes home at the end of the  
15 day.

16           So thank you again for mentioning that, and I  
17 appreciate you being here today.

18           MR. SOKOL: Ron Sokol, public representative.  
19 I just have a couple questions, Doug, and thank you for  
20 presenting.

21           First off, on the comment that you made  
22 regarding the partnerships that OSHA has, particularly

1 in construction, that allow a more efficient operation  
2 of the inspections that are going to take place over,  
3 say, an 18-month project, you said maybe three  
4 inspections.

5           So first off, does OSHA track the time savings  
6 that they have seen in those type of partnership  
7 arrangements versus a non-partnership construction  
8 project? And if you do, are you communicating that  
9 value to potential new partnerships?

10           We all know when OSHA comes on a site, the  
11 amount of work that gets done at that particular --  
12 those days tends to slow down significantly as  
13 resources are expended for the inspection process.

14           So that's my first question. I'll just get  
15 them off, and you can address all three.

16           Secondly, regarding staffing, what is OSHA  
17 doing, particularly within your department, to ensure  
18 that there is adequate resources to onboard new  
19 inspectors as well as compliance assistance specialists  
20 to be able to provide these resources to employers?

21           I know Scott had mentioned that it takes about  
22 three years for an individual to go through the OSHA

1 process till they're ready to provide value. So is the  
2 agency actively looking at really, as people sunset out  
3 of the agency, to have adequate staff to do that?

4           And then my third question, if you could  
5 address, is on the mentoring programs for VPP. I work  
6 in the Region 6 area, where there's probably more VPP  
7 because of the petrochemical industry.

8           So has OSHA considered a process where the  
9 active VPP members could mentor the new applicants to  
10 be able to utilize those resources in a way and almost  
11 sign off on the application process as a sustaining VPP  
12 member so your office doesn't have to spend as much  
13 time, so now you have a kind of a dual mentoring  
14 program where you have an established VPP group looking  
15 at new applicants and then hopefully be able to get  
16 people into the VPP process sooner?

17           MR. KALINOWSKI: So I can answer -- I could  
18 semi-answer all of those. Well, except for the second  
19 one. The second one about in terms of onboarding for  
20 CSHOs, and Bob -- I think Bob Murphy is on after lunch  
21 today. He's the deputy director at the Directorate of  
22 Training and Education. He can probably answer that

1 better because they do have a process in place to sort  
2 that out. So I think Bob -- like I said, Bob Murphy is  
3 on at 1:00, so he can probably answer that directly  
4 much better than I can.

5           In terms of time and -- back to partnerships.  
6 I mean, we have a lot of data on these, like, 69  
7 partnerships, and we have -- and we collected from  
8 individual sites, and many of them look at those  
9 individually, but we haven't looked at it in some time  
10 as a whole, because one of the things we look at -- and  
11 I came from the state of Michigan, and we used to have  
12 partnerships and we used to look at data in terms of at  
13 least lagging indicators, injury and illness rates,  
14 compare the partnership sites with the non-partnership  
15 construction sites.

16           And what we found was the injury and illness  
17 rates at those sites, the partnership sites, was  
18 probably 10 percent or 20 percent or less than what  
19 you'd find in construction, the same types of  
20 construction operations.

21           And that's one of the things we're trying to  
22 look at right now as well is how do you evaluate the

1 usefulness of the partnership, whether it's -- I'm not  
2 sure if time saving is one of them. I think there's  
3 some individual data out there about sites, but we  
4 haven't actually compiled it all across all the -- we  
5 really should, and we should probably talk to Scott  
6 about how to figure out what the best metrics we could  
7 use because we should be doing that as well. Because  
8 everybody has a feel for it and goals' stories about  
9 how effective they are, but we don't have data, and we  
10 really need to have data to show that they are. So  
11 that's -- so we don't have a time, but we're working  
12 towards that.

13           The mentoring -- and I talked about a few  
14 things we're trying to do around VPP action as a whole,  
15 a lot more we're trying to do around VPP than what I  
16 talked about here. I just tried to talk about the  
17 major ones. And I know that many of the regions are  
18 already doing that to try to streamline the process.

19           So Region 5, for example, and some others are  
20 actually using SGEs to go out and somebody fills out an  
21 application. When they get it, before they accept it  
22 formally, they find an SGE to help them out and go look



1 at that site, right, instead of using OSHA staff, to  
2 make sure their application looks like it's complete  
3 before it actually formally gets accepted.

4 So there is mentoring going on, but it's more  
5 of an informal kind of process that many of the regions  
6 have done on their own.

7 So we need to look at ways to formalize it,  
8 and that's one of the things we're looking at too. And  
9 I talked about -- I didn't -- it was on the slides, but  
10 I didn't talk too much about that. We need to find  
11 more ways to do that.

12 We're also working with the Department of  
13 Defense. The Department of Defense is a big VPP  
14 proponent, and they have a number of sites. And we're  
15 looking at a pilot, which I know makes -- raises a  
16 little concern by some of our regional staff, but we're  
17 looking at a pilot with the Department of Defense where  
18 they do some of the re-approval evaluations on their  
19 own, led by not the same service. Like the Army  
20 wouldn't do the Army. The Army could do the Navy,  
21 right.

22 And they would use -- they would head up their

1 own teams. They would be trained as team leaders.  
2 They would head up their own teams, do internal  
3 evaluations as a pilot, and then the VPP manager would  
4 go out for a one-day visit and just evaluate to confirm  
5 that the team did a good job and an acceptable enough  
6 job so that we're not even using OSHA people at  
7 Department of Defense. And that's another type of  
8 mentoring that we're trying to get to.

9 MR. SOKOL: Thank you. Just one other  
10 suggestion I would have. I've talked to some SGEs that  
11 have gone out and were part of the mentoring process,  
12 and one of the things that they comment back is how  
13 much they learn from even a VPP applicant that they  
14 bring back to their own sites.

15 So to be able to have a mechanism to capture  
16 those best practices and have that in a database where  
17 even though they were -- just because a site isn't VPP  
18 doesn't mean they don't have best practices, and to be  
19 able to capture that information and have that in the  
20 system, particularly in the petrochemical industry  
21 where you have common processes and people can look at  
22 it in a more effective way. Thank you.

1 MR. CANNON: All right. One quick question.

2 MR. FOUGHT: Chris Fought, public  
3 representative. You guys are doing a lot of great work  
4 in your division, and I'm pleased with that. I'm also  
5 very excited about the social media campaign that you  
6 guys are doing with the young workers.

7 Do you have any data that indicates what type  
8 of -- how many people it's reaching? Because from my  
9 perspective, if I were about 25 or 30 years younger,  
10 I'd probably be following more social influencers that  
11 probably OSHA, but it would be interesting to find out  
12 what type of data that we're getting, the number of  
13 hits and followers and things like that.

14 MR. KALINOWSKI: I think we do, but I don't  
15 have it right here with me.

16 MR. FOUGHT: Okay.

17 MR. KALINOWSKI: And Career Safe has been a  
18 great partner in that too. Career Safe really  
19 understands youth, right. And just like all of us,  
20 right, their big issue is we've got to share  
21 information by phone. Don't you all -- we use our  
22 phone for everything, and so does young people too,

1 right? And so the goal is to -- and so my guess is  
2 they are tracking a lot of this stuff, and I will try  
3 to get back with you before the end of this day.

4 MR. FOUGHT: Okay, thank you.

5 MR. CANNON: Doug, I said one more question,  
6 but I do have one more question. (Laughter.)

7 MS. DEPRATER: First of all, great  
8 presentation. This is a great overview of everything  
9 you're doing, and really this leads a little bit into  
10 what Kevin had to say.

11 You talked about culture and you talked about  
12 your plan. You talked about the number of companies --  
13 well, actually, the no pain, no gain. I'd be curious  
14 to know -- a two-part question.

15 How many companies are you touching in that  
16 small-to-medium size range? Because those are the ones  
17 that really do need the help and the outreach and  
18 everything that you're providing.

19 And as you talked about culture, what is the  
20 plan, and do you -- what is the plan to grow? What is  
21 the plan to create that culture? What does that look  
22 like, and do you have the capacity to do that at this

1 time given the number of staff that you have?

2 MR. KALINOWSKI: Well, in terms of reaching  
3 small-to-medium size, the consultation program we have  
4 solid numbers in terms of 26,000. And those --

5 MS. DEPRATER: That's 26,000 employ --

6 MR. KALINOWSKI: Employers.

7 MS. DEPRATER: Companies. Employers. Okay.

8 MR. KALINOWSKI: Employers. There might be  
9 some overlap where there's kind of where somebody  
10 actually does an onsite evaluation, does -- follows up  
11 with some direct employee training. But for the most  
12 part, like 95 percent of those are unique employers.  
13 And the expectation is you don't keep going back to the  
14 same employer time and time again, because the goal is  
15 to get them to be more self-sufficient, okay.

16 And the second half of that question was?

17 MS. DEPRATER: More about your culture, your  
18 plan to grow, and do you have the capacity given what  
19 you have in-house right now to grow given attrition  
20 rates of people leaving the agency, retiring, people  
21 coming into the agency? What's the plan to create that  
22 culture and grow these programs?

1           Because 26,000 employers is good, but it's not  
2 great, and so I'd like to know what is that strategy  
3 for growing the culture, doing more outreach, and  
4 reaching more of these small-to-medium size companies.

5           MR. KALINOWSKI: Well, some of this is --  
6 still ties back to like how do we change the Alliance  
7 Program to get to more people, which any of these trade  
8 associations, most of their members are small-to-medium  
9 size employers, right? Right? Whether it's  
10 construction or manufacturing, they're mostly small-to-  
11 medium size.

12           So we try to give -- but that's still like a  
13 higher level. We're not getting to the field level.  
14 And I think -- and maybe Bill is going to talk about  
15 this as well too. And I think one of the things we try  
16 to work with the Directorate of Standards of Guidance  
17 is the -- and what's really been a great campaign is  
18 Safe and Sound. Right? It gets information out, it  
19 gives people practical ideas, practical ideas on how  
20 small employers can implement, because, like, oh, I  
21 can't deal with this and I just gotta make widgets,  
22 right? But no, I think that Bill's program has been

1 great in terms of helping employers figure out that  
2 hey, no, we can keep it simple and we can make use of  
3 these tools.

4           And his group -- we work with them very  
5 closely to share that information beyond and across the  
6 country. So that's probably the -- OSHA's budget is  
7 not growing dramatically and hasn't over the years, and  
8 I can't speak to that. Congress sets the budgets for  
9 us.

10           MR. CANNON: Thank you, Doug. We are going to  
11 have our next speaker up, but before we do, yesterday  
12 we missed the opportunity to have the picture taken  
13 with Acting Assistant Secretary Sweat, so she may pop  
14 in during our presentation, Bill. We'll just stop and  
15 take a picture, and then we'll resume.

16           And the other thing is, for the record, is I  
17 just need to announce that we do have a quorum.

18           All right. Our next speaker is Bill Perry,  
19 who is the director of the Directorate of Standards and  
20 Guidance. Bill, welcome.

21           MR. PERRY: Good morning. Thank you, Mr.  
22 Chairman. It's a real pleasure to be here this

1 morning. Good morning to all of you, and let me say  
2 that it's a really good thing to have ACCSH back. I  
3 know it's been a long time, but you're up and running  
4 now, and that's a very, very good thing for the agency.

5           So what I plan to do today is just a quick  
6 update on not the whole regulatory agenda but a few  
7 particular things I think will be of interest to this  
8 committee. And then as Doug mentioned, I'll give you a  
9 bit of an update on what's happening with our Safe and  
10 Sound campaign this year. If I can figure this out.  
11 Okay.

12           So, of course, I have to start with the  
13 crystalline silica rule. This was a big one for us  
14 that was published now almost three years ago and has  
15 been in effect for a couple of years in the  
16 construction rule.

17           So we're currently enforcing all covered  
18 industries in construction, general industry and the  
19 maritime industry as well. And as I'm sure you're  
20 aware, the construction standard is separate from the  
21 general industry maritime standards to take into  
22 account the particular circumstances under which



1 exposure occurs in the construction industry.

2           If you haven't looked at this recently, we  
3 have quite a bit of guidance, outreach materials, on  
4 the construction standards. You see our silica webpage  
5 up here. I encourage everyone to take a look at it.

6           I'll highlight in particular we have a very  
7 extensive set of FAQs that answer a lot of questions  
8 about how the construction rules are implemented and  
9 provide additional information on what employers need  
10 to do under that standard.

11           The construction FAQs came out, I think, last  
12 year, and I just want to put a special thanks out there  
13 to many industry and labor organizations that assisted  
14 us. We didn't just sit here in Washington and make  
15 these things up. We actually got questions from  
16 industry and labor, we vetted responses back through  
17 them to make sure that they were clear and helpful, and  
18 that was really a huge help that we got from the  
19 construction industry and labor organizations to get  
20 those FAQs out.

21           We did a similar thing on the general industry  
22 side, and those FAQs came out just this past January.

1           I will mention what we're currently doing in  
2 this area. I'm sure most of you are aware that we are  
3 planning to issue a Request for Information. As you  
4 know, the construction standard is kind of unique among  
5 OSHA standards in that it has provisions that specify  
6 certain dust controls for certain kinds of operations  
7 such that if employers are implementing those controls  
8 as specified by the rule, then we're saying you don't  
9 need to do the exposure assessment and some other  
10 things; you'll simply be considered to be meeting the  
11 standard as far as the permissible exposure limit goes.

12           That's been, I think, very successful, and  
13 we've had many, many requests from people since the  
14 standard came out to take a look at some additional  
15 operations, take a look at some additional dust control  
16 technologies, and expand that requirement.

17           So that for operations or control systems that  
18 are not presently specified in the rule, employers are  
19 required to do periodical exposure monitoring, which  
20 can be fairly costly in the case of crystalline silica.  
21 This would get people out of that mode of health  
22 activity and would be able then to simply use the

1 technologies that are becoming available.

2           We've heard from a number of vendors. There's  
3 been a lot of R&D going on out there, a lot of new dust  
4 control products, a lot of new tools and equipment that  
5 we think will be very helpful.

6           So we will be getting this Request for  
7 Information out, and if you have good information on  
8 the effectiveness of certain dust control technologies,  
9 I encourage people to submit that so that we can give  
10 that serious consideration.

11           And once the RFI comes out, the record will be  
12 open for a period of time in order for us to receive  
13 this data. We'll take a look at that, and then we  
14 would propose changes to the silica construction rule  
15 on that specified control technologies that are in the  
16 rule. So then we'll go through the usual notice and  
17 comment process there.

18           A quick update on beryllium. There's not a  
19 whole lot I can say at this time about it. As you  
20 know, we did publish a beryllium rule covering the  
21 construction industry back in early January of 2017 in  
22 response to the presidential directive to review

1 standards that are not yet -- that were not at the time  
2 yet in effect.

3           We did do a review of that and published a  
4 proposal in June of 2017 to retain the permissible  
5 exposure limit of .2 microgram per cubic meter and the  
6 short-term limit of 2 microgram per cubic meter, but to  
7 revoke all of the ancillary provisions, provisions  
8 dealing with hygiene facilities and housekeeping  
9 exposure assessment and so forth.

10           The revised PELs are currently in effect and  
11 they are being enforced. And we're now looking at the  
12 record. We got considerable comment on our June  
13 proposal dealing with the ancillary provisions, so  
14 we're looking through those comments, deliberating, and  
15 figuring out now what to do in the way of a final  
16 action.

17           So given the record is closed on that, has  
18 been closed for a while, we are in deliberation here,  
19 which isn't something -- I'm afraid I can't give you  
20 any indication of what direction we're going yet  
21 because we're still really talking about it with our  
22 agency leadership and with the solicitors.

1           Again, this slide just gives you a note on the  
2 enforcement status. As far as the general industry  
3 rule goes, we did publish a proposed amendments to that  
4 rule this past December, mostly for the purpose of  
5 clarifying our original intent and to avoid some  
6 unintended consequences that were brought to our  
7 attention from the 2017 rule. So we're also working on  
8 that, finalizing that action as well. But as I  
9 mentioned, in the construction industry as well as in  
10 shipyards, the permissible exposure limits are in  
11 effect.

12           And then here you see the guidance page for  
13 the beryllium rulemaking. Again, we have quite a few  
14 FAQs. We have fact sheets, medical surveillance  
15 guidelines. As some of you are aware, the medical  
16 surveillance for beryllium that's necessary for  
17 beryllium is rather unique, involving a blood test, a  
18 lymphocyte proliferation test. I don't know why I have  
19 trouble saying that all the time. BELPT, it's called.

20           So there were provisions in the standard  
21 dealing with that, and there's some good, hard guidance  
22 on how to conduct effective medical surveillance for

1 beryllium-exposed workers.

2           We are working on a proposal to update our  
3 Hazard Communication Standard. If you recall back in  
4 2012, we amended OSHA's hazard communications standard  
5 for the first time to incorporate the Globally  
6 Harmonized System for hazard -- for classification of  
7 hazardous chemicals.

8           This laid out basically the logic structure by  
9 which manufacturers and distributors of chemical  
10 products had to use in order to classify the hazards  
11 associated with use of their products, and then convey  
12 that information on safety data sheets and on labels.

13           In 2012 I think we incorporated up to the  
14 third revision of the Globally Harmonized System.  
15 There is a revision that comes out every few years.  
16 They are now up to revision seven, and so our update  
17 will focus primarily on the changes to the GHS that  
18 occurred since 2012 up to revision seven.

19           These are things that deal with particulates  
20 not otherwise classified, some physical hazards,  
21 flammable gasses, desensitized explosives, and some  
22 things of that nature.

1           In addition, we have been over the years since  
2 2012 been made aware of some particular complications  
3 that employers are having with the Hazard Communication  
4 Standard, particularly with the labeling with how to  
5 treat old inventories and things like that. So we'll  
6 be addressing some of those issues in the proposal as  
7 well.

8           The basic framework of the Hazard  
9 Communication Standard will not change, so the  
10 obligation for manufacturers and importers to provide  
11 information identifying chemicals in their products and  
12 the hazards associated with them will not change, and  
13 employers' obligations to make that information  
14 available to their workers and to train their workers  
15 in chemical hazards on worksite. That will also remain  
16 in effect. So there's not really any big changes  
17 planned in the Hazard Communication Standard other than  
18 updating the GHS.

19           The next thing of interest, we issued a  
20 Request for Information on our Powered Industrial Truck  
21 Standard. We were focused primarily on the General  
22 Industry Rule, which has been unchanged or not very

1 much changed in over 40 years. I think it is still  
2 based on the 1969 ANSI B56.1 Standard for Powered  
3 Industrial Trucks.

4           Since that time there have been a lot of  
5 changes in powered industrial trucks. There are some  
6 new designs and types that have come out that our rule  
7 does not address, so we are looking at all of the  
8 updated ANSI standards and NFPA standards as well. And  
9 we have published a Request for Information so that we  
10 could get initial input from interested parties on how  
11 OSHA should think about updating its Powered Industrial  
12 Truck Standard.

13           We did -- as I said, we did ask some broad  
14 questions regarding use of powered industrial trucks in  
15 the construction industry as well as in the maritime  
16 industry, and we did hear from some construction trade  
17 associations that provided us with some very useful  
18 information, particularly on rough terrain PITs.

19           So we're looking at all that now and thinking  
20 about how we should approach a proposal to update that  
21 standard.

22           One other standard -- I don't have a slide on



1 it but would be of interest to you as well -- is we  
2 have proposed a few years back to amend our Respiratory  
3 Protection Standard and add a couple of revised fit  
4 test procedures for -- that are based on the porter  
5 counter -- or particle counting technology for fit  
6 testing.

7           These revised procedures would amend the --  
8 some of the exercises and the time. It basically  
9 reduces the time it takes to do fit testing over the  
10 required procedure that's in the standard now.

11           So we've done quite a bit of analysis on these  
12 revised fit test procedures, and we'll be publishing a  
13 final action pretty soon. I think the action will be  
14 going into department clearance shortly. It will need  
15 to be reviewed by the Office of Management and Budget  
16 before it gets published, so hopefully it won't be much  
17 longer.

18           And on to Safe and Sound. We've already  
19 mentioned this is our third year running this campaign.  
20 We have -- basically, the strategy here is to recruit  
21 partner organizations, trade associations, labor  
22 organizations, other organizations that -- and use

1 their communication network to get information about  
2 safety and health programs to their respective  
3 constituencies, particularly focusing on small-and-  
4 medium size businesses.

5           We emphasize in this campaign three core  
6 elements of safety and health programs: management  
7 commitment, employee involvement, and finding and  
8 fixing hazards. So we produce quite a bit of  
9 information. We are partnering with other  
10 organizations -- ASSP, AIHA, CPWR, NIOSH, and for the  
11 first time in this campaign the VPP/PA is also a co-  
12 organizer with us.

13           So the idea is to get information on how  
14 people can implement or improve their programs through  
15 these partners. We have over 200 of them lined up for  
16 this year. So ultimately, when they push information  
17 out to their constituencies we're reaching tens of  
18 thousands if not more of businesses and hundreds of  
19 thousands of workers.

20           So it's -- so far, last year it was a really  
21 big success, we thought. People really liked it, so  
22 we're continuing it this year. We are looking at Safe

1 and Sound Week, which is a culmination of the campaign.  
2 It's a week where we encourage the people who signed up  
3 for Safe and Sound to celebrate their successes for the  
4 year in some way.

5           It could be very creative. It could be some  
6 people do training, some people do some other things,  
7 have demonstrations at their worksite, to really,  
8 again, just refocus everybody on the importance of  
9 safety and health at work.

10           We have -- we come out with newsletters about  
11 every month. You can get these by signing up through  
12 the Safe and Sound website on our listserv. We have  
13 over 50,000, I think, that have signed up on the  
14 listserv.

15           And basically, these newsletters have  
16 information in them, again, to promote safety and  
17 health programs and explain to people why they're  
18 important and how it's not really that difficult to get  
19 started.

20           We try to make this easy for people. Here you  
21 see an example of some fact sheets, an example of some  
22 of the resources we try to send that message from that

1 this is not rocket science. You don't have to get  
2 really lost in it. All of these things are derived  
3 from OSHA's Safety and Health Program Recommendations  
4 that we issued back in 2016, kind of an update of  
5 OSHA's old 1989 Safety and Health Program Guidance.

6 I think, I'll say too, that there's another  
7 guidance product we're very excited about that we will  
8 be releasing very soon, and that is a document on how  
9 employers can think about and use leading indicators to  
10 gauge the effectiveness of their safety and health  
11 efforts.

12 So rather than just focusing on the injury  
13 rates, you're looking at some other measures in an  
14 effort to be more proactive. I think there are other  
15 indicators in almost any business that can tell you  
16 before incidents occur the likelihood that they will  
17 occur.

18 So we'll be putting out some guidance on that.  
19 We are planning also -- we'd like to get some people  
20 together to talk about how they use leading indicators,  
21 so we're thinking of a stakeholder meeting at some  
22 point probably in the fall, and we will be announcing

1 that as soon as that can get set up.

2 But the leading indicators guidance should be  
3 out I think within days, so it shouldn't be much  
4 longer.

5 And you can get additional information on our  
6 Safe and Sound campaign. You see the website here  
7 where you can get at everything I've been showing you.  
8 So if you aren't already a participant in Safe and  
9 Sound, please sign up, and we'll look forward to seeing  
10 what you all do during Safe and Sound Week next month.

11 And I think as far as formal presentation,  
12 that's it. I'd be happy to take your questions with  
13 the Chair's permission.

14 MR. CANNON: Thanks, Bill. A good update.  
15 AGC, building trades, homebuilders were all involved in  
16 that process to develop FAQs so --

17 MR. PERRY: Yeah.

18 MR. CANNON: So it was really helpful. I  
19 think both sides understood the importance of it, and  
20 now they're out there for our members, building and  
21 trade members, to you. So I want to thank you for  
22 that.

1           Yes?

2           MS. CAIN: Can I answer that, too? I think --  
3 this is Chris Cain, Employee Rep -- the same  
4 discussions where the FAQs were developed or also the  
5 industry and the humans were very interested in seeing  
6 an RFI on expansion of Table 1 that's described. So  
7 I'm really happy to hear that's still on its way up.

8           MR. CANNON: And yeah, I just have a question  
9 on the RFI. One is we can't just wish these things on  
10 there, whether it's the task or expansion of the  
11 controls, so data is going to be required. And so can  
12 you speak to how much data is going to be -- for  
13 instance, the entry on stationary masonry saws, we  
14 wanted to add an option for dust collection systems.  
15 What are you looking for as far as the amount of data?

16           MR. PERRY: We used a variety of data in the  
17 original rule when we first designed what we call the  
18 Table 1, or the list of required controls. Ideally, it  
19 is personal exposure data showing time-weighted average  
20 of exposures that result from using the dust control,  
21 in addition to, I would say, some operating parameters,  
22 as much detail as can be provided on what the equipment

1 is and how it works would be helpful to us.

2           If we don't have personal exposure data, we  
3 did rely in some cases on other data. It could be test  
4 data. It could be lab data. Ideally, it would be  
5 something that would reflect a worse-case exposure  
6 situation. So if you've got somebody operating the  
7 equipment, let's say in an experimental setting,  
8 they're in an enclosure, and if the result is you still  
9 have exposures below the (inaudible) of 50 microgram  
10 per cubic meter, and that's kind of a worse-case  
11 situation, it's probably not unreasonable to presume  
12 that in the field you would get even lower exposures.

13           How the equipment is to be used, how often a  
14 day, typically, just sort of what would be the typical  
15 practice in using the equipment. Is it somebody who's  
16 going to be using it all day long pretty constantly, or  
17 is it one hour a day, two hours a day, we would  
18 typically do this, and then people would be -- that's  
19 really all that's required.

20           So something about the pattern of exposure so  
21 that we could put the exposure data and pattern of use  
22 together to make reasonable predictions of what an

1 employee's exposure would be.

2 MR. CANNON: And I'm assuming one sample is  
3 not going to do it, right? So we need one sample, 10  
4 samples, 15?

5 MR. PERRY: We would -- well, there isn't a  
6 hard and fast number because it really kind of depends  
7 on the circumstances under which the data were  
8 collected. Obviously, more is better, but realizing  
9 that there are practical limits to what people are able  
10 to do, we're not going to say, well, yeah, we need 15  
11 data points minimum because that isn't what we did in  
12 the original rulemaking.

13 So if you were to go and look at the preamble  
14 to the 2016 final rule where we walked through every  
15 entry on Table 1 and explained the kind of data we  
16 relied on as well as the kind of comments that came in  
17 from the proposal, that should give you a pretty good  
18 idea of how we think about this.

19 MR. CANNON: Okay. And then just a couple  
20 more things on the RFI. I think we all recognize  
21 during the initial rulemaking that sampling data was  
22 kind of scarce.



1 MR. PERRY: Mm-hmm.

2 MR. CANNON: So I think if you -- whenever  
3 this comes out, if -- that the folks who are going to  
4 be at the top to collect data and submit so that  
5 whatever their request is can be considered.

6 And then the other thing, all that you said  
7 about the parameters surrounding the samples, if you,  
8 to the extent possible, kind of explain that in the  
9 RFI, I think that would help you get information you're  
10 looking for.

11 MR. PERRY: Okay, I think we do to some  
12 extent. It's not a very long document, but I think we  
13 do describe in the RFI what kind of data in particular  
14 we're looking for. And since this is a pre-proposal  
15 stage, we can do whatever we want as far as meeting  
16 with people, talking to people. We're not constrained  
17 in any way.

18 So if people have questions, they can contact  
19 us and we can talk over. If somebody's planning to do  
20 something and they want to know, "Do you think this is  
21 a reasonable way to go," we can maybe help with that  
22 thinking there too.

1           MR. CANNON:  And then one thing -- I'm sorry,  
2 just one more thing.  You highlighted the resources on  
3 the Safe and Sound website.

4           MR. PERRY:  Yes.

5           MR. CANNON:  Can you talk about any that are  
6 construction-specific?

7           MR. PERRY:  Oh, it's not coming to me.  We may  
8 have something up there, but that's just not coming to  
9 me right now.

10           I think the idea here too is the basic  
11 principles under which these people think about these  
12 three core elements to a safety and health program are  
13 pretty universal in terms of employee involvement and  
14 what that means, and how do you demonstrate it, what  
15 are ways to involve employees in your safety and health  
16 program, finding and fixing hazards is pretty much do  
17 the audits, do the walkarounds.

18           We do have guidance on how both managers,  
19 safety people and managers can do walkarounds, because  
20 it's different for both depending on where they are  
21 within the organization.

22           So I think the guidance that's up there isn't

1 really targeted to one sector or another. I think  
2 we've tried to write it so that it could be implemented  
3 pretty much anywhere.

4 MR. CANNON: All right. I know we have a few  
5 questions out of Palmer, Cindy, and Chris. So Palmer.

6 MR. HICKMAN: Thank you, Mr. Chairman. Palmer  
7 Hickman, Employee Representative. Bill, very  
8 informative presentation. I have a question that's not  
9 related to what you discussed, and it's actually  
10 related to an RFI that was published in the Federal  
11 Register on May 20th related to control of hazardous  
12 energy.

13 I think we might be missing an opportunity to  
14 not have construction considered in that, because it  
15 looks like it specifically, from reading the Federal  
16 Register, 1910.147. So I have two concerns.

17 Number one --

18 MR. PERRY: Okay.

19 MR. HICKMAN: We're not really looking at how  
20 construction activities interface with 1910.147. So I  
21 think 1926.417B specifically is very performance-based.  
22 It gives us little. To render inoperative and attach

1 tags is essentially all it says. So I think we have an  
2 opportunity to add granularity there.

3           The other consideration that I think is being  
4 missed is in 1910.333B2. So if we look specifically  
5 only at 1910.147, when you look at Note 2 to  
6 1910.333B2.IIB, or I'm sorry -- 1910.333B2, Note 2, it  
7 specifically mentions you can use 1910.147, but there  
8 are two important -- well, actually three important  
9 things missing: the electrical hazards covered by  
10 subpart S and two specific other considerations.

11           So I would specifically like the agency to  
12 consider 1910.333B2 because that, at least to me,  
13 implies that electrical is missing from 1910.147.

14           MR. PERRY: I see. Okay, interesting  
15 perspective. I would say our focus on the  
16 lockout/tagout standard at this -- when we issued the  
17 RFI, the situation we were running into was we were  
18 starting to see equipment that's been coming out over  
19 the last 10 years or so that is not designed to be  
20 locked and tagged. It is controlled circuitry, it's  
21 computer circuitry, use of inner locks and various  
22 other things like that.

1           There were a number of consensus standards as  
2 well as international standards that addressed this  
3 type of equipment. This equipment, strictly speaking,  
4 does not comply with 147.

5           So we're seeing this in the field saying,  
6 "Well, gee, what do we do?" Because -- so we thought  
7 that it was important for us to really focus in on  
8 that, at least as far as modernizing the lockout  
9 standard, which is now over 20 or 25 years old, I  
10 think.

11           So in addition, kind of a peripheral issue  
12 looking at robotics, which has some relation to the  
13 controlled circuitry issue, we thought we would try and  
14 get some information on that.

15           Now, since that's our focus, that doesn't  
16 foreclose other ways we can improve the standard.  
17 We're very interested in ways we can improve the  
18 standard.

19           So I would welcome any comments come into the  
20 record on the point that you made. I'm just an  
21 industrial hygienist, so I don't really know what some  
22 of these provisions get at in the electrical standards,

1 but we have people certainly on staff that can think  
2 about this.

3 So I appreciate your comments, and please  
4 submit and tell us more in your submission to the  
5 record to help guide us as to what we should do.

6 MR. HICKMAN: Thank you, again, Palmer  
7 Hickman, at a high level, that's what I think needs to  
8 be explored. Thank you.

9 MR. PERRY: Okay, thank you.

10 MS. DEPRATER: Cindy Deprater, Employer  
11 Representative. Bill, on the Safe and Sound campaign,  
12 you mentioned third year to run the campaign, 200  
13 partners. You mentioned ASSP, IAHA (phonetic), CPWR,  
14 NIOSH, and VPPA, using their networks to socialize the  
15 information.

16 And my question is: How do you plan to track  
17 the number of hits? If you've got that many partner  
18 organizations pushing out -- I mean, it's great to run  
19 campaigns. I think this is going to be a really good  
20 one. But we also need to understand what impact it's  
21 having. So is there a requirement to track and report?

22 And then additionally, is there a feedback

1 mechanism from the general public or employers to be  
2 able to provide testimonials on what's working and  
3 what's not working"

4 MR. PERRY: I believe the answer is yes, we do  
5 have ways of doing that. I neglected to bring numbers  
6 with me from our last year's campaign, but we do know  
7 how many, particularly using social media we track  
8 that, so we know what the partners, the 200 or so  
9 partners, trade associations, labor organizations, and  
10 others are sending out to their constituencies. We  
11 monitor the social media, again, during Safe and Sound  
12 Week because we get a lot of information on what  
13 individual employers are doing during that week.

14 In addition, I think we've got some software  
15 now that actually will let us do even a better job of  
16 tracking the social media information flow, if you  
17 will. But we do get statistics on these at the end, so  
18 -- and I think we may have had some up on our website  
19 from last year's campaign.

20 So this fall we will be putting some more out,  
21 some information on here's what happened during the  
22 present campaign, here's how many people were involved

1 --

2 MS. DEPRATER: Do you give them certificates,  
3 like they do for --

4 MR. PERRY: Yes. And I should mention too, we  
5 know you ran into a couple of difficulties getting the  
6 registration information out, but it'll be out within a  
7 few days so people can start to register for Safe and  
8 Sound Week. They'll get some kind of recognition that  
9 they participated. So all that will be coming up, I'm  
10 hoping the early part of next week, probably.

11 MS. CAIN: It's been fun to be part of this  
12 with OSHA, and we do -- we are tracking metrics. We do  
13 have some construction-specific material that's been  
14 developed that's on the website. I just tried to pull  
15 it up. I couldn't.

16 We've also done at least one webinar was part  
17 of the effort to promote this, and we tied it into the  
18 Foundations for Safety Leadership and Safety Culture  
19 Climate work that Linda Goldenhar leads for us, because  
20 it really does make sense because all of that is about  
21 good programs and elements of good programs.

22 So I'll be happy to provide it for my



1 colleagues here.

2 MR. PERRY: I thank you for that.

3 MS. CAIN: I think everyone here should join  
4 this campaign to help promote safety and health  
5 programs. It's easy. The fact that the Directorate of  
6 Standards and Guidance has made it very easy, they have  
7 a lot of good information and good tools.

8 My question is a little different, though I --  
9 when you talk about the GHS harmonization, and this is  
10 a question that's kind of ignorant, has GHS done  
11 anything on the frontier of requiring manufacturers to  
12 identify engineered nano-particles in their products?

13 That's something that's a big challenge in our  
14 industry. We have great effort put into tracking where  
15 engineered nano-particles are being used in  
16 construction. We are doing it to the best of our  
17 ability, but the SDSs are poor in this regard. They  
18 don't necessarily identify when a component is of nano  
19 size nor sometimes the components will be absent due to  
20 the small quantities, but very small quantities can be  
21 very active in that mixture of compounds.

22 MR. PERRY: Okay. What the GHS does -- this

1 is an international subcommittee under the auspices of  
2 the United Nations. My deputy, Maureen Ruskin, is the  
3 current chair of that committee. They just had -- came  
4 back from a meeting in Geneva. They meet twice a year.  
5 So I think it was last week they had their last  
6 meeting.

7           And what they do is really look at how the  
8 hazards are to be classified, then we set requirements  
9 for -- they have a format for SDSs as part of the GHS.  
10 We don't really set requirements. It's up to each  
11 individual country then to decide whether to adopt  
12 their system or not. We certainly did in 2012.

13           I think with nano materials there's been some  
14 discussion. I don't think it's an item that they're  
15 actually trying to develop, because what they would  
16 need to do is look at different categories or kinds of  
17 nano materials and look at the health data, the  
18 epidemiology, animal studies, whatever there is, so  
19 that they can provide guidance on how the hazards of  
20 these things should be classified.

21           I think that's still -- there's still a lot  
22 that's not known about exposure to nano materials, and

1 I think there's even still -- I'm not even sure that  
2 the ANSI has come out with their nomenclature standard  
3 yet. I get emails periodically on that, but I think  
4 even figuring out how to classify the structures and  
5 name them is a real challenge too.

6 But they have had discussions, so I think  
7 they're thinking about what should we do, what should  
8 the GHS subcommittee do with respect to nano materials.  
9 But I think it's probably a ways off is my best guess.  
10 I can talk -- I can -- I will check with Maureen if she  
11 has any differing information than what I just told  
12 you, then I could be sure that that gets to the  
13 committee so that you're up to date. But that's my  
14 understanding.

15 MR. CANNON: We have time for one more  
16 question if anyone has anything. All right, seeing  
17 none.

18 MR. PERRY: Thank you, thank you. I  
19 appreciate the opportunity.

20 MR. CANNON: All right, we're about to head  
21 into break. The agenda does say 10:15 to 11:00. Of  
22 course, we're at more like 10:30 right now, but we're

1 not going to take a half hour break. We're going to  
2 break from 10:30 until 11:45.

3 PARTICIPANT: 10:45.

4 MR. CANNON: I mean 10:45. Sorry.

5 (Laughter.) 10:45.

6 (Brief recess taken.)

7 MR. CANNON: All right, we're about to get  
8 started up again, but before we get into the next  
9 presentation I just have an announcement for the  
10 attendees. One is if you haven't signed in, please do  
11 so. And just like we announced yesterday, we're going  
12 to give the public an opportunity to provide comment to  
13 the committee in between the presentation and the  
14 consideration and recommendation by ACCSH. So if  
15 anyone in the audience is interested in making remarks  
16 after the gentlemen present, please sign up in the back  
17 and we'll fit you in in between the presentation and  
18 discussion.

19 So with that, our next agenda item is the  
20 presentation on OSHA's proposed rule to add reference  
21 to the definition of confined space that applies to  
22 welding activities in construction, 29 CFR Part 1926,

1 Subpart J. And our presenters will be Mr. Garvin  
2 Branch and Mr. Richard Euell.

3 MR. BRANCH: Thank you. As you just  
4 mentioned, this is our -- part of our regulatory team.  
5 Richard Euell from SOL and Andrew Boddie. Did you have  
6 something to say?

7 MR. EUELL: Andrew is joining us for the  
8 summer, so he's part of the legal team that's been  
9 working to help support this. So --

10 MR. BRANCH: And I'm going to -- going to let  
11 you know up front I'm not going to go through all of  
12 those slides. I gave you the basic to put the slides  
13 together so that we can have a constructive  
14 conversation. It's a lot of information. Some people  
15 wanted to see what the language of the standards looked  
16 like, so a lot of that stuff is in there. I'm going to  
17 speak and we will probably use a couple of slides here  
18 and there to enhance our presentation.

19 Basically, up before we proposed the confined  
20 spaces in construction rule, we had one definition --  
21 well, a description of what a confined space is in the  
22 1926 construction standards. The whole purpose of this

1 rulemaking was to make this consistent with how the  
2 industry was using the -- their work practices for  
3 confined spaces in general.

4           One difference between the definition of  
5 confined space that we're going to be talking about  
6 today and the definition -- the old definition that's  
7 gone is that that old definition had a description  
8 about atmospheric hazards in there. That's more  
9 consistent with a permit space that's in our new  
10 standard too.

11           We held a hearing where we proposed a rule in  
12 November of -- November 28, 2007. We had a hearing  
13 where we consulted the industry about our intentions of  
14 making one definition applicable to all construction  
15 activities. We got positive feedback on it. We  
16 published the final May 4th, 2015.

17           Well, since then we've heard from stakeholders  
18 that they noticed that there was a reference in the  
19 Subpart V, Power Distribution Transmission Standard, to  
20 the new definition of confined spaces, but there is not  
21 one in the welding standard, 1926 353. There's also a  
22 line in the confined spaces standard that -- that

1 starts out the definitions section where the following  
2 terms are defined for the purpose of this subpart only.

3           At first we didn't understand why folks were  
4 questioning whether this definition applied to welding,  
5 but then when they brought these points to our  
6 attention, it's like, oh, well, this is reasonable. So  
7 our reason -- what we thought was reasonable for a fix  
8 for this was to take the -- take -- revise the -- that  
9 little line in the definitions section to make it clear  
10 that this could apply to other sections of the  
11 construction CFR, and also to put a reference in the  
12 welding standard to that definition.

13           Well, that seems reasonable enough, just like  
14 what we discussed with PPE Fit. We just want to make  
15 things consistent and have consistent enforcement of  
16 the recognized industry work practices for when you're  
17 doing welding in confined spaces.

18           As I noted in our PowerPoint, there are  
19 several provisions that we're concerned about as well  
20 that we don't -- we want to stay consistent with it,  
21 and the general industry standard and the maritime  
22 standard are the two that are forefront. In both of

1 those, we have a -- we have definitions that are  
2 somewhat broader than the definition of confined spaces  
3 that that are -- that's being applied to construction.

4           We didn't really have any concerns about that  
5 during the rulemaking of, you know, tightening that  
6 definition somewhat. However, there's -- you know,  
7 they do have, you know, little quirks in the standards  
8 regarding compliance with the standard when you're  
9 emitting certain types of substances while you're doing  
10 welding, which brings me to the second point that the  
11 stakeholder brought to our attention.

12           They believe that because of the confusion  
13 that they perceive in the industry about which  
14 definition applies to the construction and welding  
15 standard, they believe that their compliance with the  
16 standard and the application of the definition of  
17 confined space that we've adopted would cause them to  
18 change their work practices. When someone says that to  
19 you, you know, during -- as you're getting ready to do  
20 a rulemaking, it flips a different switch. It's no  
21 longer a purely administrative change for consistency;  
22 it potentially could put a burden on the employers.



1           So what we proposed to do with this rulemaking  
2 is, one, take care of that administrative part of it  
3 first; and then, secondly, pose a couple of options to  
4 address the concerns that these stakeholders have.  
5 Primarily, the biggest concern that they have is that  
6 they believe that they should be allowed to only  
7 provide ventilation, mechanical ventilation, when  
8 there's -- when there is not natural ventilation that  
9 would sufficiently keep the levels at a safe level.

10           We're a little nervous about that because when  
11 you -- once you start doing welding in a confined  
12 space, you're emitting fumes, vapors, aerosols, all  
13 kind of things, and they have different molecular  
14 weights that just because a top is open or doors are  
15 open, they don't travel -- they don't necessarily  
16 travel where you think they might travel.

17           And this particular standard doesn't require  
18 them explicitly to have monitoring and testing, so the  
19 standard itself presumes that -- well, not presumes a  
20 hazard, it gives you an indication that you need to do  
21 something until you can prove that there is nothing.  
22 And that's the way that they want us to -- to apply

1 this standard, but the way the standard is written we  
2 don't think that that's the way -- we've been enforcing  
3 it differently the whole time. We -- you have to have  
4 ventilation when you're doing welding in a confined  
5 space. The only thing that changed was the definition  
6 of what a confined space is.

7 So going forward we would really like to --

8 MR. CANNON: Garvin, if I can stop you for a  
9 second. One thing we forgot yesterday was the group  
10 picture with Loren, and she's joined us now.

11 (Laughter.)

12 MS. SWEATT: Just in time.

13 (Laughter.)

14 MR. CANNON: Just remember where you, you  
15 know, pick up your --

16 MS. SWEATT: Going forward.

17 (Laughter.)

18 MR. BRANCH: So going forward, really, we  
19 would -- we would like to get, you know, feedback from  
20 the committee of whether or not we're -- that whether  
21 or not we're -- oh, he's trying to stop me.

22 MR. CANNON: Yes.

1 (Laughter.)

2 MR. SOKOL: We were serious.

3 (Laughter.)

4 (Brief recess taken.)

5 MR. CANNON: All right, we're about to go back  
6 on the record.

7 Garvin?

8 MR. BRANCH: I'm going to -- Richard is going  
9 to say a few things.

10 MR. EUELL: Since we had a nice natural break  
11 there, I thought --

12 (Laughter.)

13 MR. EUELL: I just want to clarify from the  
14 legal background, what's going on with this rulemaking  
15 is that, as Garvin mentioned, there was an old  
16 definition of confined spaces before we did the  
17 confined spaces in construction rulemaking. As part of  
18 that rulemaking we removed the old definition, so we  
19 have one definition of confined spaces left that is now  
20 in the confined spaces in construction standard.

21 I think OSHA's intent was that that would  
22 apply and everybody would understand that that one

1 definition would apply to everywhere that confined  
2 spaces was used in the rest of the construction  
3 standards because there are no other definitions in the  
4 construction standards for that term.

5           However, from a legal standpoint what happened  
6 in enforcement matters is that someone raised a notice  
7 issue and they said, well, we don't -- you did not make  
8 it clear that you intended to apply that definition to  
9 all the rest of the references to confined spaces in  
10 the confined space in construction -- I mean in --  
11 throughout the construction standards.

12           So what we're trying to do here with this  
13 rulemaking is to apply -- make it clear to everyone,  
14 solve that notice issue, make it clear to everyone that  
15 the definition of confined spaces, which is the only  
16 definition in the construction standard, will apply to  
17 all of the construction standards. So I wanted to give  
18 you that legal background.

19           MR. BRANCH: So, you know, going forward we  
20 really have three things that we would like your  
21 feedback on. Well, one in particular. Just the doing  
22 the revision of the standard to make it clear that only

1 one definition applies is the first thing. If you give  
2 us that recommendation going forward, you know, we're  
3 good -- we're good to go.

4 But within this rule, should -- we just wanted  
5 to make sure you were clear that this rule could have  
6 other consequences depending on what stakeholders say.  
7 To our knowledge, it's only one stakeholder group that  
8 has concerns about this particular provision.

9 And the third is that we had -- the definition  
10 -- the word "confined space" is in other standards and  
11 we would like to throw out there and get feedback of do  
12 we need to put a similar reference in these standards  
13 or are they fine by themselves? We don't want to have  
14 to repeat this again for, you know, others that notice  
15 okay, you put one in welding but then there's not one  
16 in the other two standards that we've identified so  
17 far.

18 Is there something that you want to add?

19 MR. EUCELL: Just to be clear there, we've  
20 identified two other standards where the term "confined  
21 space" is used without being defined, and so that's in  
22 the HAZWOPER standard in 1926.65 and in the fire

1 protection standard in 1926.154.

2 MR. BRANCH: So that's it. We'd just like  
3 your feedback on what your take on this is.

4 MR. CANNON: All right. Before we get into  
5 our discussion and debate I'm going to ask again if  
6 there's anyone in the audience that has any comment on  
7 this presentation.

8 (No response.)

9 MR. CANNON: No. All right, seeing none. So  
10 I guess I understand it as being the issue is that the  
11 welding standard had its own definition that conflicted  
12 with the confined --

13 MR. BRANCH: It had no definition.

14 MR. CANNON: It had no definition.

15 MR. EUELL: The previous definition of  
16 confined space was in 1926.21(b)(6).

17 MR. CANNON: Okay, okay.

18 MR. EUELL: And that's the -- that was a  
19 general -- that was the kind of old confined spaces  
20 standard that wasn't really a standard.

21 (Laughter.)

22 MR. EUELL: But that was the only other --

1 that was the only place where it was defined at all.  
2 All these other standards -- the welding standard and  
3 the two others that I mentioned -- used the term  
4 "confined space" without defining it.

5 MR. CANNON: Okay. So you just want to add a  
6 reference to --

7 MR. BRANCH: And get rid of -- do something to  
8 that line in the confined spaces standard that makes it  
9 ambiguous whether the definition in the confined spaces  
10 standard can be applied to anything else in  
11 construction.

12 MR. CANNON: And you cautioned us that doing  
13 so could have implications for other standards.

14 MR. BRANCH: Some stakeholders may raise  
15 issues that may -- we may have to, you know, ask some  
16 questions about what their concerns are. We don't know  
17 what those -- how it really impacts them at this point.

18 MR. EUELL: To clarify a little bit, the  
19 definition of confined space in the old -- the old  
20 definition included a provision that it had to be able  
21 to accumulate atmospheric hazard, and the definition of  
22 confined spaces in the confined space standard is

1 defined in terms of whether a human, an employee, can  
2 be -- you know, can escape from that space.  
3 Essentially, whether there's egress or not. It doesn't  
4 talk about whether there's ventilation or anything like  
5 that.

6           And so the concern I think was by the  
7 stakeholder that just applying the confined space  
8 standard in construction would not allow for situations  
9 where there might be adequate natural ventilation. And  
10 so I think that what Garvin said was one of the things  
11 that OSHA would address in this rulemaking is figure  
12 out how to provide for situations where there might be  
13 adequate ventilation to make sure that there's not a  
14 hazard -- hazardous atmosphere accumulating because of  
15 the welding activity.

16           MR. BRANCH: And if you follow good safety  
17 practices you would have to do something as an employer  
18 to determine that it would not have -- you know, have  
19 those hazards. And, you know, the -- I'm not sure how  
20 this, you know, stakeholder really wants to apply this,  
21 whether or not -- the standard requires you to have  
22 ventilation; it's just not clear to them of when they



1 need to have mechanical ventilation. We -- we're  
2 trying to figure out, well, you know, where is the  
3 ambiguity.

4 MR. EUCELL: I think it's OSHA's view that  
5 mechanical ventilation or local exhaust ventilation is  
6 generally required whenever you're welding in a  
7 confined space, and the issue here is whether that had  
8 been sufficiently noticed to the people who are -- have  
9 this concern.

10 MR. CANNON: We have two questions. Cindy and  
11 then Chris.

12 MS. DEPRATER: Cindy DePrater, employer rep.  
13 Good job, but it did open up some questions for me in  
14 terms of -- and this may seem elementary, but I think  
15 it's important that we make the most informed decision.  
16 Fundamentally I agree that consistent standards are  
17 where we should be.

18 Is there a way that you can provide a side-by-  
19 side comparison of the language that's existing in what  
20 you're proposing so that we can see that side by side?  
21 And then also, as you mentioned these other issues with  
22 other standards, you obviously have something in your

1 mind that you're thinking of and I'd like to know what  
2 those are. Where could it touch other standards? What  
3 do you think the impact would be? And can you list  
4 those out? Because I think that's important to this  
5 committee to be able to see exactly what it is you're  
6 trying to move forward with and what that proposed  
7 language is.

8 MR. BRANCH: Well, the first -- well --

9 MS. DEPRATER: Is that all of it?

10 MR. BRANCH: To get at your -- to get at your  
11 last request, these are -- this is the actual language  
12 of the standards that Richard suggested that I add to  
13 the PowerPoint that I had on the -- that I originally  
14 have in the docket. I mean, those -- it just mentions  
15 the -- it just mentions confined spaces in those  
16 standards. This one is another one under the same  
17 provision, and then there's a third here.

18 MS. DEPRATER: But you mentioned could open up  
19 other -- other is what's catching my attention.

20 MR. BRANCH: Well, with these we don't  
21 anticipate -- no one commented on these being  
22 problematic that the definition that we promulgated

1 affect these things. But anytime we do a rulemaking  
2 there is unanticipated, you know, kind of concerns that  
3 may come up. I just want to make you aware that these  
4 things are in other sections. Even though we did  
5 another rulemaking that we think we clearly covered  
6 this, we just wanted to make you aware that maybe some  
7 people in these industries may say something.

8 MR. KETCHAM: With regards to that, what  
9 you're talking about there would come through in the  
10 rulemaking process, through the notice of those  
11 rulemakings.

12 MS. DEPRATER: Okay.

13 MR. CANNON: All right. Chris.

14 MR. BRANCH: And then with the second -- the  
15 second part, we -- I mean, the -- we really didn't want  
16 to get into specific language because there's all sorts  
17 of options that you can kind of -- kind of do. You  
18 could potentially add a definition in 1926.32, the  
19 definitions section, that would cover the whole CFR.  
20 We could put a reference to the definition in the  
21 welding standard, something that's similar to what's in  
22 Subpart V. And is there another option that you can

1 think of?

2 MR. EUCELL: Well, I think the point of the --  
3 first, to get back to your question about which  
4 sections would be affected, to our knowledge we've  
5 identified the two other sections that would be  
6 affected. Those are the -- we did a search for, you  
7 know, every time "confined space" shows up in a  
8 standard, and that these would be -- they would take on  
9 the definition that is currently in the confident space  
10 in construction standard, and it's only those. We're  
11 not aware of any others, so it's not -- we're not  
12 thinking that there's some, you know, other things that  
13 might come up.

14 But there are -- there are several different  
15 ways that we can draft the changes. We're still -- I  
16 think they're still thinking through different  
17 approaches. But the point would be whatever approach  
18 we take, the definition of confined space that's in the  
19 confined space in construction standard would be the  
20 definition that would apply to each one of these  
21 appearances of a confined space in all of the  
22 construction standards.

1           And the confined space in construction -- the  
2 confined space definition is defined in terms, like I  
3 said, of when someone can escape from a confined space  
4 or whether they're trapped in there. And so that -- it  
5 has different implications, but they -- right now those  
6 terms are used in the other provisions without any  
7 definition, and we had thought that it was clear to  
8 everyone that the only definition that was left in the  
9 standard would apply, but again, thanks to the lawyers,  
10 we insist on dealing with notice issues.

11           MR. CANNON: Chris.

12           MS. CAIN: Chris Trahan, Employee  
13 Representative. So I think I understand the one  
14 request is that on the third or fourth to last line  
15 that you provided us, is that you want to modify  
16 1926.1202 to remove the terms "the following terms are  
17 defined for the purposes of this subpart only." That's  
18 one item, right?

19           MR. BRANCH: Mm-hmm.

20           MS. CAIN: What I'm having trouble  
21 understanding -- forgive me -- is how that intersects  
22 with the welding requirement for ventilation. So under

1 the welding subpart there's a requirement that whenever  
2 welding is done in a confined space, ventilation has to  
3 be used. That's pretty plain.

4 I think what you're saying is the issue that  
5 was brought to your attention is that folks who were  
6 familiar with this requirement essentially used the old  
7 definition as an out to providing ventilation when they  
8 felt they could demonstrate that there was no  
9 accumulation of harmful vapors and gases.

10 MR. BRANCH: That's my understanding.

11 MS. CAIN: Okay. I think I understand that  
12 now. And because I have not memorized the confined  
13 space standard, the new construction one, how -- is  
14 welding specifically treated in that? Or how do you  
15 see -- how do you see that standard apply to welding?

16 MR. BRANCH: Well, we put a lot of time and  
17 effort into the preamble to give some guidance of how  
18 the two standards would work in concert with each  
19 other. We look at the welding standard as a vertical  
20 standard. It -- you know, it applies to whenever --  
21 whatever welding hazards are there. It's a preexistent  
22 standard. We didn't reopen that section during this

1 rulemaking and we intended to leave it as it was.

2           There -- there is a -- as you said, we see  
3 that provision for that ventilation requirement as  
4 being pretty simple, plain. However, the stakeholder  
5 that has the concerns about it thinks that the old  
6 definition allows them to do something other than  
7 what's plain.

8           MS. CAIN: What's plainly written.

9           MR. BRANCH: Right.

10          MS. CAIN: Right.

11          MR. BRANCH: So, you know, going forward it --  
12 kind of like what we do with RFIs, we ask questions, we  
13 give alternatives. We want to get feedback from the  
14 industry about what you think, you know, we should do  
15 as well, not just this one stakeholder. This one  
16 stakeholder was already addressed in the prior  
17 rulemaking as well, and we explained that we -- the  
18 hazards that were addressed in the welding standard for  
19 the welding activities are also going to be covered by  
20 that when you're in a confined space. Any other  
21 hazards that are not addressed by the confined spaces,  
22 you would fall back to the other welding standards.

1           MR. EUELL: Any other hazards not addressed by  
2 the welding standards --

3           MR. BRANCH: Not addressed by the welding  
4 standard, you would fall back to the general confined  
5 space requirement. So, I mean, they were supposed to  
6 work in concert with each other.

7           MS. CAIN: So, again, this is Cain. Has there  
8 been litigation over this issue? Have we -- has OSHA  
9 lost cases where they've enforced the welding standard  
10 since the new confined space standard has been issued?

11          MR. BRANCH: There was an enforcement issue  
12 and there was a citation that OSHA eventually withdrew  
13 over this issue. And that's when we decided to do  
14 rulemaking.

15          MR. CANNON: Fravel.

16          MR. COMBS: Fravel Combs, Employer  
17 Representative. In your earlier statement you talked  
18 about some concerns that they had. Did they give you  
19 any examples of --

20          MR. BRANCH: I mean, the organization are  
21 tank-building organizations, and they talked about  
22 tanks that had open tops on them. The -- that doesn't



1 necessarily mean that all of your vapors and fumes just  
2 go out the top of the tank. Some of them could settle  
3 down, you know, in the bottom. They did just believe  
4 that their industry, you know, through their work  
5 practices, and they've been safe is basically what  
6 they've been saying. I just think that they've been  
7 lucky in a lot of situations.

8           MR. COMBS: I think my perspective is in the  
9 confined space standard as it's written today, you can  
10 still get back to where only ventilation is required  
11 under the alternate space process. You just have to  
12 prove that it's safe in order to use the alternate  
13 confined space process. So I guess I'm --

14           MR. BRANCH: Welding -- I mean, the way that  
15 we've been enforcing the welding standard, as far as I  
16 know for the 20 years that I've been in OSHA, is that  
17 they've already determined back then that mechanical  
18 ventilation would be sufficient if you've determined  
19 that it would be sufficient, and it would be allowed.

20           The general industry standard, whether it's  
21 the general industry confined spaces standard and the  
22 construction standard, built on those as well for

1 general applications of confined spaces and allow the  
2 employer to make a predetermined -- you assume that  
3 it's there first until you can prove that it's not, and  
4 then if you can prove that you can use a lower level of  
5 protection, that's what you're allowed to use under  
6 that alternative procedure.

7           Well, this alternative procedure was  
8 prescribed for this particular sector of construction,  
9 you know, before those rulemakings came out, and we  
10 intended to preserve that.

11           MR. CANNON: Chuck and then Ron.

12           MR. STRIBLING: Chuck Stribling, state  
13 representative. So it seems to me -- you made a  
14 statement a while ago and we were just sitting here  
15 talking about this ourselves -- as far as from the  
16 other -- from the 28 state plans, I'm looking at this -  
17 - you know, what will this do to us and what we have to  
18 do to our standards? And it seems to me the cleanest  
19 way to approach this would be to get rid of the  
20 reference in 1926.1202 and then add a definition in  
21 1926.32 for confined space, which would apply to all of  
22 Part 1926, and so we don't have to go in and hit three

1 or four different standards. It makes our rulemaking  
2 process life a whole lot easier and it would seem to  
3 clean it up across the board.

4 That being said, if it was done that way, do  
5 you think it would achieve that?

6 MR. BRANCH: Look, I'm -- that's one of our  
7 alternatives. You know, we're looking at options of  
8 doing it clean. We wanted something that'd make the  
9 most sense.

10 MR. STRIBLING: Thanks.

11 MR. BRANCH: Mm-hmm.

12 MR. CANNON: Ron.

13 MR. SOKOL: Ron Sokol, public representative.  
14 You've done a really good job, Garvin, of outlining the  
15 issues and even where some other standards come in. In  
16 the shipyards, we look at what they're doing, and  
17 general industry, they're all working off of the same  
18 definition. And then when there's some unique  
19 circumstances within that industry, whether it be  
20 shipyards or even general industry, it's addressed.

21 So I would echo Chuck's comments that putting  
22 that confined space as a definition in the .32 section,

1 and then every time you see that, you know, oh, now  
2 I'll have to make some determinations. Well, is it a  
3 permit-required confined space or is it not? And it  
4 requires the employer to begin to assess the hazards  
5 associated with it, and if they could remove all those  
6 hazards and there's no contaminants, then it becomes a  
7 non-permitted space and he can rely on his general  
8 pollution ventilation in order to protect the person.

9           But it requires the employer to go through  
10 that logic to ensure these employees are protected  
11 there other than just saying, well, we've never had an  
12 issue in the past.

13           So that to me would be the cleanest way  
14 because now you have an established definition that  
15 goes back to a standard that works in harmony with the  
16 particular standard on welding or shipyards or general  
17 industry. So that would be even a formula going  
18 forward if there's an issue within the HAZWOPER  
19 standard or the fire protection standard, that confined  
20 space is there and you already have a methodology built  
21 in on how that's addressed with the vertical standard  
22 then going back to the Subpart AA.

1           You know, we spent 21 years on this journey to  
2 improve confined spaces and the safety of confined  
3 spaces from two sentences to a standard that really  
4 protected the American worker and the employer as well.  
5 So I think that's -- that to me would be the best way  
6 to approach it, and the cleanest. Thank you.

7           MR. CANNON: Any more questions for Garvin or  
8 Richard?

9           MS. DEPRATER: If that would be a  
10 recommendation, to move it from 1202 to 32, would they  
11 have to amend the proposal? Or would that come out in  
12 rulemaking or --

13          MR. GILLILAND: You can formulate the  
14 recommendation --

15          MS. DEPRATER: Okay.

16          MR. GILLILAND: -- in any way you like.

17          MS. DEPRATER: Just curious.

18          MR. CANNON: Richard.

19          MR. EUELL: May I add one thing? The reason  
20 that we had considered removing the word, you know,  
21 from the -- OSHA had its boilerplate at the beginning  
22 of the definition section on confined spaces. It was

1 just the boilerplate that we generally use to make sure  
2 there aren't any unintended consequences, and so we  
3 have that boilerplate there that says for the purposes  
4 of this section or this subpart only. If we don't  
5 remove that word "only," it sets up a little bit of  
6 tension.

7           So regardless of how else we also incorporate  
8 the definition for the rest of the construction  
9 standards, I think OSHA is thinking about removing that  
10 word just to make it clear.

11           MR. CANNON: So there would need to be two  
12 recommendations, one to remove the language from 1202  
13 as well as putting the definition in .32?

14           MR. EUELL: I think you can -- you can  
15 structure whatever recommendations that you guys want,  
16 but --

17           MR. CANNON: But I mean it would need to  
18 achieve both of those?

19           MR. EUELL: Yeah, the -- we tried to put in  
20 the slide there, you know, that the purpose of the  
21 rulemaking would be to clarify if the definition of  
22 confined space in construction standard 1202 applies to

1 all the terms in construction -- all the times that  
2 confined space is used in construction, and however --  
3 you know, we -- I think the idea was we would address  
4 that in the rulemaking as long as everybody understood  
5 that was what we were doing, and then the specifics of  
6 how we would do that would come out in the NPRM and be  
7 subject to public comment.

8           But for your recommendations, you can  
9 recommend that OSHA goes forward with the proposed  
10 rulemaking, you can do other recommendations if you  
11 want, but generally we've tried to outline what the  
12 proposed rulemaking would be.

13           MR. GILLILAND: We could also -- we could have  
14 more than one motion and recommend one, they go forward  
15 with the NPRM, and then also if you have specific  
16 recommendations to consider doing it in a certain way  
17 if you prefer to do it that way.

18           MR. CANNON: Palmer.

19           MR. HICKMAN: Thank you, Mr. Chairman. Palmer  
20 Hickman, Employee Representative. I fully support this  
21 what I consider to be logical, reasonable and  
22 necessary. One of the other subparts I think this does

1 affect is Subpart V. I do believe you specifically  
2 mentioned that earlier in your presentation. So  
3 1926.953(g), I know that changed to Subpart AA. It was  
4 kind of new to that industry. We're still making those  
5 folks aware that they need to go to Subpart AA. So I  
6 think that's one place that would be affected and even  
7 with that knowledge -- I work in the electrical  
8 industry, represent the electrical industry -- I  
9 support OSHA's move.

10 MR. CANNON: Chris.

11 MS. CAIN: Chris Cain, Employee  
12 Representative. Does this solve the problem as it  
13 relates to the perception of the welding requirements  
14 in Subpart J?

15 MR. BRANCH: I mean, that's our intent. We --  
16 we really need more information about what their  
17 particular concerns are. We've heard them in the  
18 former, the prior rulemaking for confined spaces and we  
19 addressed them in the preamble. To my knowledge,  
20 nothing has changed really, but there may be something  
21 that we're not getting, and that's, you know, why the  
22 rulemaking is necessary -- for the public comment --



1 and to not just have a dialogue with that stakeholder  
2 but with the industry, who also may operate in tanks  
3 and, you know, things that are similar.

4 MR. EUCELL: To the extent that the issue was  
5 the perception that there would never be a situation  
6 where natural ventilation would be acceptable, even if  
7 measured, that could be addressed in this rulemaking so  
8 that the scope of the rulemaking would include whether  
9 or not there should be some adjustment to the welding  
10 standard to allow for some cases of natural  
11 ventilation.

12 Does that answer your question?

13 MS. CAIN: Yes.

14 MR. CANNON: Wes.

15 MR. WHEELER: Wes Wheeler, Employer  
16 Representative. Again, thank you for this  
17 presentation. It was very informative. And I know  
18 that when confined spaces in construction came out, I  
19 think one of the concerns from the construction  
20 industry was if I was on a construction project and I  
21 go to that project every day for three months or six  
22 months, and now I have three sides that are to a

1 facility or three sides to an area and then I go back  
2 to work that one day, now overnight or over the weekend  
3 they put up a fourth wall and it's changed now to that  
4 sense that it falls under this definition that exists  
5 in 1202 of a confined space -- limited means of entry  
6 and exit and not designed for somebody -- so those may  
7 -- that may be, you know, some of the concerns that  
8 you're looking at, whereas if I'm welding outside I may  
9 be in a pit area that, you know, is not designed for  
10 somebody, or a containment wall, but yet it may have  
11 the natural ventilation that exists currently.

12           You know, and the way that I guess I'm looking  
13 at this is that I see there's a difference between a  
14 confined space and a permit-required confined space,  
15 but we're talking about the tanks, we're talking about  
16 the atmospheric hazards, and in -- by putting, again,  
17 this definition back in 32 where it could be referenced  
18 and maybe, again, looking at that definition so that it  
19 would be inclusive of maybe some of the information  
20 that existed in 1926 so that we look at those  
21 atmospheric hazards and what's being brought into that,  
22 and whether it is an open top or whatever it is. What

1 are those concerns? But I think that that's one of the  
2 concerns that they're looking at.

3 I almost want to say that the difference here  
4 is whether it's just a simple confined space in an open  
5 area or whether it's a confined space within that tank,  
6 and I think maybe that way -- maybe where some of the  
7 definition needs to look at or be defined to be  
8 applicable for this particular question.

9 MR. BRANCH: That's the kind of information  
10 that would be taken into consideration when we're, you  
11 know, drafting the final rule.

12 MR. CANNON: All right. Well, it sounds like,  
13 you know, based on all the discussion and questions,  
14 everybody agrees that there's a need for consistency so  
15 everybody understands, you know, what definition  
16 applies and when. But as far as, you know, the  
17 recommendation that we should make, because it sounds  
18 like everybody -- you know, I understand putting it in  
19 the definitions section or referencing it in the  
20 welding section. I think, you know, if we just put  
21 together a general recommendation that you go forward  
22 with an NPRM and lay out all the various options

1 instead of being restricted to just one, I think you'll  
2 get feedback on each. Would that make sense? And then  
3 that would help guide which way you go.

4 Chris.

5 MS. CAIN: Mr. Chairman, did -- were you going  
6 to call for public comment prior to a motion being  
7 made?

8 MR. CANNON: I did call for it earlier, but  
9 before we start, you know, entertaining a motion, I'll  
10 put it out there again. Anybody in the audience wish  
11 to comment on the discussion that we just had related  
12 to OSHA's request?

13 (No response.)

14 MR. CANNON: Seeing none. So I think we need  
15 to enter a motion.

16 MS. CAIN: Chris Cain, Employee Rep. And feel  
17 free to correct me here if --

18 (Laughter.)

19 (Crosstalk.)

20 MS. CAIN: I make a motion that ACCSH  
21 recommend that OSHA proceed with notice of proposed  
22 rulemaking to clarify the definition of a confined

1 space in the confined space standards, Standard  
2 1926.1202, apply to all uses of that term in OSHA's  
3 construction standards.

4 MR. CANNON: And could we add to -- I'm sorry.

5 MS. CAIN: That's the end of my motion.

6 MR. CANNON: Well, I was going to say, you  
7 know, trying to at least capture that -- you know,  
8 present all regulatory options that, you know, they are  
9 considering.

10 MS. CAIN: I think that's listed.

11 MR. GILLILAND: So we can -- we can second her  
12 motion --

13 MR. CANNON: Okay.

14 MR. GILLILAND: -- and if anyone wants to  
15 amend the motion, you can do it that way.

16 MR. STRIBLING: I second.

17 MR. CANNON: All right. Any discussion on the  
18 motion?

19 MS. CAIN: Ms. Cain. Only that I think we can  
20 make more motions about where other things should  
21 happen, other actions, but -- and this is a clean  
22 motion for the agency to consider.

1 MR. CANNON: All right. All in favor?

2 (Chorus of ayes.)

3 MR. CANNON: Opposed?

4 (No response.)

5 MR. CANNON: Seeing none, it is a unanimous  
6 pass.

7 (The motion is passed.)

8 MR. CANNON: And again, is -- you know, with  
9 the motion that was just made, and this is for Garvin  
10 and Richard, you know, is it your intent -- you know,  
11 because it was just a very general just move forward  
12 with it, that you would lay out all of the compliance  
13 -- I mean all of your options that you considered as  
14 far as, you know --

15 MR. BRANCH: Yeah, the ones that we believe  
16 are protective.

17 MR. CANNON: Yes.

18 MR. BRANCH: We do want feedback from the  
19 industry on whether we should deviate from the way  
20 we've been enforcing it through something that would  
21 allow them to do a little less, you know, if there's  
22 natural ventilation. But we still want to make it

1 clear, you know, that the employer still has some  
2 obligation to prove that the -- that this situation is  
3 still safe.

4 MR. CANNON: Right. Palmer, you had a  
5 question?

6 MR. HICKMAN: I'm all set. Thank you.

7 MR. CANNON: Okay. All right. Well, again,  
8 any other motions that any of the committee members  
9 might want to put forward?

10 MS. DEPRATER: I do want to -- Cindy DePrater,  
11 Employer Rep. I do want to add -- and I'm going to  
12 have to have some help structuring this, but I do want  
13 to add to the motion that we do look at all the  
14 options. ACCSH recommends that we do look at all the  
15 options for 1926.32(b) -- or 32, amend that to 32 -- so  
16 that we can explore other opportunities to clarify and  
17 simplify this proposed rulemaking. Is that enough?

18 MR. CANNON: Yes, sir.

19 MR. SOKOL: I'd add with the goal of  
20 consistency of language throughout the standards.

21 MS. DEPRATER: With the goal of consistency of  
22 language --

1 MR. SOKOL: About (inaudible), yes.

2 MS. DEPRATER: -- throughout the standards.

3 MR. GILLILAND: So as it -- as it stands, the  
4 motion is ACCSH recommends that OSHA look at all  
5 options for 1926.32 so that we can explore other  
6 opportunities to clarify and simplify with the goal of  
7 consistency of language throughout. Do you want to  
8 change "we" to "OSHA"?

9 MS. DEPRATER: OSHA, please.

10 MR. GILLILAND: The motion is ACCSH recommends  
11 that OSHA look at all options for 1926.32 so that OSHA  
12 can explore other opportunities to clarify and simplify  
13 with the goal of consistency of language throughout.

14 MR. SOKOL: Okay, second.

15 MR. CANNON: All righty, any discussion on the  
16 motion? Chuck?

17 MR. STRIBLING: One question. Could you --  
18 could you read it back one more time, please?

19 MR. GILLILAND: ACCSH recommends that OSHA  
20 look at all options for 1926.32 so that OSHA can  
21 explore other opportunities to clarify and simplify  
22 with the goal of consistency of language throughout.



1           MR. STRIBLING: Okay. Right, we don't have  
2 the words "confined space" in there.

3           MS. DEPRATER: Right, we've got to put  
4 "confined space" in there.

5           MR. STRIBLING: Right. That --

6           MS. DEPRATER: If we --

7           MR. STRIBLING: Please. We all know what  
8 we're talking about, but for the record.

9           MS. DEPRATER: We do. Right. ACCSH  
10 recommends that OSHA look at all options for defining  
11 confined space, including 1926.32. Will that work,  
12 Chuck?

13           MR. STRIBLING: Then we can finish up the rest  
14 of it.

15           MR. GILLILAND: The motion is now ACCSH  
16 recommends that OSHA look at all options for defining  
17 confined space, including in 1926.32, so that OSHA can  
18 explore other opportunities to clarify and simplify  
19 with the goal of consistency of language throughout.

20           MR. KROCKA: Randy Krocka, I second that  
21 motion.

22           MR. CANNON: All right. We got any

1 discussion?

2 (No response.)

3 MR. CANNON: All in favor?

4 (Chorus of ayes.)

5 MR. CANNON: Opposed?

6 (No response.)

7 MR. CANNON: All right, the motion carries a  
8 unanimous vote.

9 (The motion was passed.)

10 MR. CANNON: All right. Thank you, Garvin,  
11 and thank you, Richard.

12 MR. BRANCH: Thank you.

13 MR. CANNON: We're a little ahead of the  
14 schedule for today. We were scheduled to break at  
15 12:00 for lunch, 12:00 to 1:00, so it looks like we'll  
16 have a longer lunch. And we're going off the record.

17 (Brief recess taken.)

18 MR. CANNON: All right. Calling the meeting  
19 to order. Before we get started with our next guest, I  
20 just want to make an announcement to my fellow ACCSH  
21 members. When you're making statements, make sure you  
22 speak into the mic and then remember to identify

1 yourself and your membership category, please.

2 All right. So our next speaker is Mr. Robert  
3 Murphy, deputy director, Directorate of Training and  
4 Education. And he's going to provide us with a DTE  
5 update. Robert?

6 MR. MURPHY: Good afternoon, everybody. Well,  
7 thank you for having me here today. It seems like no  
8 matter where I go this week, the weather is extremely  
9 hot so -- but I'm happy to be here. And I will be  
10 going over kind of an overview of the Directorate of  
11 Training and Education and our initiatives external to  
12 OSHA to our public stakeholders and our external  
13 customers and also internally what we do in terms of  
14 training our staff.

15 The first slide that I wanted to start with  
16 was our students trained last fiscal year in FY 2018  
17 based on category. And as probably many of you are  
18 aware of our Outreach Training Program, that is one of  
19 our largest -- that's the training program that has the  
20 largest number of students trained per year. Last  
21 year, we did break a record. We had over a million  
22 students trained through that program.

1           That is followed by the -- the OTI Education  
2 Center Program where we have a network of centers  
3 nationwide that provide best practice, occupational  
4 safety and health training to workers and employers.  
5 We also have the Susan Harwood Grant Training Program  
6 followed by the training that occurs internally to OSHA  
7 and our state planning consultation partners at OTI.  
8 So that's the breakdown of the training that occurred  
9 in last fiscal year. So it's kind of impressive to see  
10 the amount of work that the Outreach Training Program  
11 provides.

12           This is a -- the next slide is a basic  
13 overview of the three main functional units within the  
14 Directorate of Training and Education. We -- many of  
15 you may be familiar with the OSHA Training Institute  
16 itself. That is the unit that trains the compliance  
17 officers not only at the federal level but also at the  
18 state plan level.

19           We have state consultants who come to those  
20 training courses. And we also have other federal  
21 agency programs that come to the OSHA trainings to --  
22 for training as well. We have a number of classes for

1 them and some programs. The Office of Training  
2 Programs and Administration handles much of the  
3 external training that OSHA does to the public. That  
4 is the office that handles the Susan Harwood Grants,  
5 the Outreach Training Program and the OTI Education  
6 Center Program.

7           And then the -- at the top, there is the  
8 Office of Training and Educational Development. That  
9 office serves both the OSHA Training Institute and the  
10 Office of Training Programs Administration. They  
11 provide curriculum support for those units for both  
12 internal coursework and external coursework. So they  
13 are the workhorse behind the curtain in terms of a lot  
14 of instruction support that occurs. So those are the  
15 three main functional units within the directorate.  
16 And I'll walk through each one of them.

17           And the first one that I was going to start  
18 with was the Office of Training Programs  
19 Administration. And we're going to walk through,  
20 briefly, the three main programs that we have, which is  
21 the OTI Education Center Program, Outreach Training  
22 Program and the Susan Harwood Grant Program.

1           So just a little bit of background for those  
2 of you that may not know. Back in the early '90s,  
3 there was a lot of demand from the OSHA Training  
4 Institute to provide training not only to OSHA's staff  
5 and the states and the compliance staff but also to the  
6 general public. And that demand kept increasing and  
7 increasing.

8           And at the time, there was a thought of maybe  
9 we can, you know, have some type of a relationship with  
10 some other educational institutions and have a network  
11 of OTI Education Centers to provide best practice  
12 training and occupational safety and health to workers  
13 and employers. And so back in 1992, we started a pilot  
14 of the OTI Education Centers. There were four of them  
15 at the time. And that has grown over the years to  
16 about 38, 39 organizations that help deliver  
17 occupational safety and health training across the  
18 country. So that was the inception.

19           We had just -- we have just celebrated our  
20 25th anniversary for that training program nationwide.  
21 So those organizations are nonprofit organizations.  
22 They -- we opened it up on a five-year basis for these

1 nonprofit educational institutions to submit an  
2 application to be an OTI Education Center. And we --  
3 entering into an agreement with them, which is a  
4 nonfinancial cooperative agreement with OSHA, to  
5 promote OSHA initiatives and provide OSHA a number of  
6 courses. Workers can attend these courses. Employers  
7 can attend these courses. And we try to make sure that  
8 we reach out and to all of OSHA's 10 regions to provide  
9 this type of level of training.

10 In terms of the course catalog for the OTI  
11 Education Centers, we have about 20 courses that are  
12 construction-related. Some of them are strictly  
13 construction-related. Some of them are kind of  
14 crossovers. We have the falls, trenching excavations.

15 Scaffolding is a new course that we rolled out  
16 a couple years ago. But we also have some of the  
17 crossovers. There might be some electrical hazards,  
18 electrical training that gets applied to both general  
19 industry and construction. But there is about 20  
20 courses that serve or touch upon the construction  
21 industry.

22 On OSHA's website, we have a searchable

1 schedule where students can go and search the catalog  
2 and select a course that they might be interested in.  
3 And then that would take them to the appropriate  
4 education center that would be in their local area or  
5 wherever they were looking to take that course. There  
6 is contact lists out there. We also have some  
7 certificate programs. There is a public sector  
8 certificate program that is offered through the OTI  
9 Education Centers and FAQs for questions about the  
10 program and our website.

11           So that's a little bit of that program and how  
12 it relates to the construction industry. There is  
13 multi-day courses, and there is single day, what we  
14 call, short courses. So if people don't have the time  
15 to really spend three days or four days on a particular  
16 topic, sometimes we have that same topic on a one-day  
17 course, one-day session.

18           That program has also grown over time. Last  
19 year, we had another record-breaking year in terms of  
20 number of students trained. Last year, we trained  
21 about 55,000 students. This year, we are on track to  
22 either meet that mark or slightly exceed that mark for



1 the number of students trained through that training  
2 program. So we're very excited about this program.  
3 It's always an ever-developing and emerging program.

4 This program also helps us administer my next  
5 topic, which is the Outreach Training Program which  
6 many of you are probably familiar with. And that  
7 program is a hazard recognition program, primarily  
8 designed for workers. And we talk about hazard  
9 recognition and hazard prevention. This is a  
10 supplementary program. It is a voluntary program under  
11 OSHA.

12 The training that occurs under this program is  
13 supplementary in nature that it does not comply with  
14 any of the training requirements that are specified  
15 under OSHA standards. Sometimes that's a little  
16 misnomer that we try to make sure that we educate the  
17 people who are taking  
18 our -- this course that it is great training, but it  
19 does not alleviate an employer's responsibility under  
20 the Act for providing training on a particular topic.

21 So we also have -- primarily for the  
22 construction area, we have the 10- and the 30-hour

1 courses in construction. We also have those in general  
2 industry and maritime. We do have some disaster-site  
3 worker courses that are 7.5 to 15 hours. And we have  
4 about 36,000 authorized trainers nationwide. Not all  
5 of them are active. Some of them -- some employers  
6 require individuals who worked for them to be an  
7 outreach trainer. And they come and take the training,  
8 but they actually don't conduct any 10 or 30-hour  
9 courses themselves. But there are a good number of  
10 students that are active in the area, some more than  
11 others. And over -- since 2000 -- since the year 2000,  
12 this program has trained over 11 million workers.

13           So it's a great program, and we're very proud  
14 of our -- of what we're doing. We're always trying to  
15 improve that program. So, in particular, for the  
16 construction industry, we do have a 10-hour course and  
17 a 30-hour course. There are mandatory, elective and  
18 optional topics that are covered in each of those  
19 programs. Mandatory topics include an introduction to  
20 OSHA -- this is for the construction industry -- OSHA  
21 focused for hazards of falls, electrocution struck by  
22 and caught in between hazards, personal protective and

1 life-saving equipment and health hazards in  
2 construction.

3           We have some electives. And those are pretty  
4 much all of those plus an additional -- stairways and  
5 ladders and managing safety and health are mandatory  
6 topics in the 30-hour. So the elective topics again,  
7 they go over a number of different areas. And, of  
8 course, as you would guess, as you get to the 30-hour  
9 level, you can definitely add in more topics to be  
10 covered. One thing that was new this past year -- I  
11 don't know if a lot of people are aware of this. We've  
12 -- there were some other websites that were out there  
13 where people could post if they were an authorized  
14 trainer, but that was not under OSHA's purview or  
15 control. And, you know, anybody could sign up to put  
16 your name on some other website, say that I'm an  
17 authorized trainer.

18           And so what we did is we worked really closely  
19 with our OTI Education Centers and to pull this  
20 information so that we could have a place on our public  
21 website where we could direct the public to go that if  
22 they wanted to find an authorized trainer in their area

1 and the authorized trainer was out there and willing to  
2 -- you know, doing public classes, if that's what they  
3 were in the business for, that they could opt in and  
4 put their name on our public list that people could  
5 search and then people could contact them.

6           This is -- we call this Phase I, this list.  
7 We are working on Phase II where it will be a little  
8 bit more - there will be more search functions, and  
9 there will be some more options in terms of languages  
10 and being able to go to a particular website and that  
11 sort of thing. So we are still working on the  
12 mechanics and the logistics of putting that website  
13 together, but that's in its final stages so -- but  
14 we're very proud about this, and we've gotten a lot of  
15 positive comments and feedback about being able to have  
16 access from OSHA of who authorized trainers are.

17           And the Outreach Training Program has been  
18 around since almost OSHA's inception since the early  
19 '70s, the early to mid-'70s. And that program has  
20 continuously grown over the years. If you do apply,  
21 some of you may know that there are some states, some  
22 municipalities, some cities that require a worker to

1 come on a jobsite to have a 10-hour card before they  
2 started working on there.

3           When we do, we have seen bumps in the number  
4 of people trained when those laws came into effect,  
5 right after those laws came into effect. So we  
6 definitely can see that in the training numbers as we  
7 have gone forward. So this program, we would -- I think  
8 we're still looking at maybe -- maybe even exceeding  
9 this year in terms of the number of students trained.

10           So my -- my next topic for -- as the general  
11 overview is the Susan Harwood Grant Program for FY  
12 2019. We have put out the funding opportunity  
13 announcements. And we put them out there that they  
14 were open for about 60 days, that that has closed at  
15 the beginning of July. And we have 10.5 million that  
16 Congress has appropriated to OSHA to award and there is  
17 three grant types.

18           We have something that we've changed about two  
19 years ago. Targeted topic training grants and training  
20 materials development grants used to be kind of lumped  
21 in together under one funding opportunity announcement.  
22 And we felt that the training materials development

1 grant kind of got lost in it, that everybody saw the  
2 training topics first and the materials development was  
3 in there but it was always second to the training  
4 topics.

5           And we thought there was still a need to  
6 develop training materials on some other topics that,  
7 you know, we've already had a lot of materials  
8 developed on. So we felt that it was -- we wanted to  
9 try it to break them out into two different funding  
10 opportunity announcements, to delineate them a little  
11 clearer. And we've actually had some good success.  
12 Last year, when we did that, we actually had more  
13 applications than we had in the previous years. And I  
14 think we are -- we have more applications than we had  
15 from last year.

16           So the funding opportunity announcements  
17 closed at the beginning of July, like I said. And we  
18 are in the process of reviewing all of those grant  
19 applications so that they can be awarded by the end of  
20 the fiscal year. Congress set -- requested OSHA to  
21 reserve 4.5 million of the grant money, of the 10.5  
22 assets to reserve that for capacity building grants,

1 and which we have done that.

2           So we are in that process of evaluating all of  
3 those grants. Eligible organizations are nonprofit  
4 faith based, community-based organizations, labor  
5 unions, associations. And those could be -- also  
6 include educational institutions of higher learning  
7 that are publicly supported. So we are on track to  
8 have the awards awarded by September 30th. I'm always  
9 one that doesn't like to get down to that deadline. So  
10 we will hopefully have those awarded before September  
11 30th, but that's when we are statutorily required to  
12 have those completed.

13           Previous year grant materials, we have a  
14 method of posting those materials to our public  
15 website. It's kind of -- we'd like to make sure that  
16 we notify the public that, when people call us and say,  
17 "Hey, we are looking for training materials X, Y and  
18 Z," it's just not PowerPoints that are up there. There  
19 are instructor guides. There is tests. There is  
20 student manuals. There is a whole pool of information  
21 that people can draw from, from the website for the  
22 materials that we post on our public sites.

1           This year, there were a number of topics that  
2 we included that related to the construction industry.  
3 I'll just kind of highlight a couple of those. We had  
4 trenching and excavation, cranes, fall protection,  
5 entertainment industry hazards. Machine guarding  
6 hazards were in there, noise, respirable silica, safety  
7 and health programs, scaffolding and ladder safety,  
8 those kind of things, were all subjects that were  
9 included on the targeted topic list.

10           And that was a mixture of targeted topic and  
11 training materials. One note with the training  
12 materials grant, we do have -- the last item on the  
13 list is that if there is something that you -- some  
14 organization may see as an emerging issue, something  
15 that OSHA doesn't have a lot of material on, they can  
16 actually submit to us and suggest we would like to  
17 develop materials, training materials, on X. And we  
18 will evaluate that as well so it doesn't have to be  
19 picked from the list. So that is another change that  
20 we did, that we are able to do when we differentiate  
21 between the funding opportunity announcement, so we're  
22 seeing some good success with that.



1           The next topic that I kind of wanted to touch  
2 on was the training that occurs. All the training that  
3 I just spoke about is -- it's external-focused from  
4 OSHA. Now I'm going to be talking about training that  
5 actually occurs to the compliance staff and our state  
6 plans and our consultation programs. And that is done  
7 through the OTI and also with the support of the Office  
8 of Training and Educational Development.

9           So OSHA has a mandatory training program for  
10 compliance officers. And it broke -- it's broke down  
11 to three different tracks. Compliance officers who  
12 work primarily in the construction industry are dealing  
13 with construction hazards, have a specific track in  
14 there, and they have to go through the basic courses  
15 that all compliance officers have to go through. But  
16 then there is some specific courses that we look for,  
17 for anybody who would be emphasizing in the  
18 construction industry.

19           We have 13 construction-related instructor-led  
20 courses themselves. Those are in-person courses.  
21 Sometimes we have in-person courses that we call our  
22 blended where compliance officers or the students would

1 have to take a web-based portion to have some type of a  
2 fundamental background knowledge. And when they come  
3 into the instructor-led course, that's where we start  
4 from. We don't start at the beginning again because  
5 we're trying to make sure that we are using time and  
6 money appropriately and everybody's time for what they  
7 are here to do, is to be out there helping the public.

8           So we have those. We also have a number of  
9 webinars that we produce. A lot of that actually  
10 occurs from the Office of Training and Educational  
11 Development. OTI is involved with that. We also have  
12 involvement from our various directorates depending on  
13 what the subject matter is. The director of  
14 construction is involved with things that come up with  
15 -- on the construction side of the fence. And all of  
16 those are -- are recorded, and we put them up into our  
17 internal learning management system so that the  
18 compliance officers have access to that for any time  
19 when they would want to touch upon that.

20           We have tried to expand how we do our  
21 webinars. We have actually been doing some video work.  
22 And we would do like a production where we can do a

1 little bit more demonstration on particular things.  
2 And the compliance officers then have a chance to watch  
3 that video. And then we actually have a live call-in  
4 session where the compliance officers say, "I've seen  
5 the video. I have a question on this. I have a  
6 question on that." And they are able to discuss that  
7 with the subject matter expert or the instructor that  
8 actually help put that presentation together. And so  
9 that's one of the things that we're working on.

10 We're also looking at expanding distance  
11 learning where, if there is a topic that comes up that  
12 we can do distance-wise by having, like, a camera  
13 online -- we call it synchronous training where it's  
14 live. The student is able to participate, to  
15 communicate with the instructor and vice versa so  
16 questions can be answered in real time. And so we're  
17 looking at the best avenues and the best kind of  
18 content that would be applicable for that kind of  
19 delivery. So we're trying to look  
20 at a lot of different other options. We are looking at  
21 virtual reality, augmented reality, other types of new  
22 and emerging technologies in terms of training and

1 education to help augment the training that we are  
2 providing to our compliance staff. So just a couple of  
3 courses, highlights of the courses that are offered  
4 through the OSHA Training Institute, we have our  
5 construction course, our construction standards course.  
6 We have cranes and construction, excavation. That's  
7 one of our high -- our most requested courses. We can  
8 actually take courses on the road to our state plan  
9 partners. We actually have taken the excavation course  
10 on the road for that. A lot of our construction  
11 courses are portable, if you will. We are able to take  
12 them on the road to go to different states to do that.

13           Electrical, principles of scaffolding, fall  
14 erection, steel erection, concrete forms, that sort of  
15 thing, and then we also have some industrial noise, an  
16 industrial noise class that applies to all of the  
17 industries. But there is a construction component in  
18 that as well. So those are my prepared remarks for  
19 this afternoon. I assume we have time for questions.

20           MR. CANNON: Thank you, Robert. Any questions  
21 for him?

22           MR. SOKOL: Ron Sokol, public representative.

1 I just have two. The first one deals with the issuance  
2 of 10- and 30-hour OSHA cards and the possibility of  
3 fraud existing where cards are issued by non-authorized  
4 trainers and sometimes no training has taken place at  
5 all, particularly in areas where there is a requirement  
6 to present a credential. What is your agency doing to  
7 circumvent that or to get back to some type of a data  
8 structure where there can be verification where the  
9 issuance of a card becomes incidental to looking in a  
10 database, is really a better verifier of training?  
11 That's my first question.

12 MR. MURPHY: Mm-hmm.

13 MR. SOKOL: And then the second one, I just --  
14 I could address as well. Does your office have  
15 communication agreements with NIOSH to look at some of  
16 the things that are developed like in the mining sector  
17 for some of the training tools that they develop in a  
18 product called Examiner? Does your office have access  
19 to that? Is there communication agreements to make  
20 sure that your developers are being able to utilize the  
21 best training solutions that are being developed within  
22 NIOSH with NIOSH partners?

1           MR. MURPHY: Yeah. Two great questions.  
2 Thank you. The issue of card fraud, I debated how much  
3 -- whether to include it in the presentation today or  
4 not. I could spend an hour, easily, on card fraud.  
5 The agency recognized this issue of card fraud, and we  
6 actually saw a lot of it occur based on when the states  
7 would start requiring the training in terms of being  
8 able to come on a jobsite. That's where we saw, once  
9 you put a value, really kind of a monetary value on a  
10 card, that's where we started seeing a lot of this come  
11 from.

12           And so, over time, we have worked with our  
13 education centers. They have also identified this,  
14 knew this was a problem. And that's why we kind of --  
15 we went and we had some workgroups put together to get  
16 away from a paper card, which is very easy to  
17 counterfeit. If you have a printer, you could kind of  
18 fit a paper card -- to some other method.

19           And so, at the time, we -- and this is several  
20 years ago because we released the plastic cards in  
21 2016. So I'm not exactly sure when the workgroups  
22 actually started. But the workgroups, in terms of --

1 their goal was to try to figure out what can we do to  
2 help eliminate and control that fraud.

3           And so the plastic cards came -- the idea came  
4 up. And there is different elements of the card that  
5 we know about, how we want the card set up and also a  
6 verification code on the back of it. It was called a  
7 QR code or a quick response code that could check to  
8 see if -- to do some type of a verification that is  
9 this an authentic card that was issued by an authorized  
10 -- a legitimate OSHA-authorized trainer.

11           So, you know, that workgroup came together and  
12 started doing that. Then we also -- as time went on,  
13 we were wondering how quickly will people figure out or  
14 try to start counterfeiting the plastic cards. And,  
15 sure enough, that started pretty much almost right away  
16 where they were trying to do it. And we were able to  
17 find instances of when that was occurring.

18           It's a constant issue for us to do that, that  
19 -- to try to deter that counterfeiting. It's something  
20 that the agency has looked at significantly, especially  
21 when I came to the directorate as the deputy. And we  
22 are continuing to look at that. It's just not a very

1 simple thing to solve. There is a lot of moving parts.  
2 There is a lot of things that depend on one another.

3           And it's also a question of, you know,  
4 technology and what's available and what's cost-  
5 effective and that sort of thing. So it is something  
6 that's high on our list. We do, do -- call them  
7 education or outreach to the different states that  
8 actually have these requirements to let them know, you  
9 know, how the cards are set up, you know, what's the  
10 best way to authenticate or try to determine what a  
11 card is. And we have actually had referrals from those  
12 states when they believe that there is somebody who is  
13 counterfeiting cards. And we have actually had some  
14 good success in terms of getting the law enforcement  
15 people involved and where people have actually been,  
16 you know, caught doing -- selling cards.

17           We do have issues with, you know, people that  
18 are not authorized trainers creating cards. But we  
19 also need to keep an eye on the authorized trainers.  
20 There was an authorized trainer who was selling cards.  
21 And that was disappointing to see. So it's a  
22 multifaceted issue. And we are continuing to look at



1 that.

2 In terms of your second question or comment  
3 about working with MSHA or NIOSH and our sister  
4 agencies that that has actually been a discussion point  
5 probably in the past couple of months within DTE. And  
6 we are actually thinking about, you know, what's the  
7 best way to kind of start reaching out. We don't have  
8 anything official in terms -- or formal in place in  
9 terms of kind of information exchanges with the other  
10 agencies. But that has something -- that's definitely  
11 something that we are looking at and going to be  
12 exploring here. Thank you.

13 MR. CANNON: We have two more questions.

14 MS. DEPRATER: Cindy Deprater, employer rep.  
15 Hi, Robert.

16 MR. MURPHY: Hello.

17 MS. DEPRATER: Two questions. On the OTI, do  
18 you know how many or which classes for construction are  
19 taught the most, top five maybe? Which ones are the  
20 most attended?

21 MR. MURPHY: Oh. I can't tell you the top  
22 five. I know that the excavation course, the trenching

1 and excavation course is a heavily sought-after course.  
2 Fall protection is heavily sought after. We take the  
3 construction standards, the introductory course, on the  
4 road a lot. And some of them kind of vary from year to  
5 year. We do see some variations of what states are  
6 asking for. But that's information I can provide.  
7 Those are just, anecdotally, the ones that are coming  
8 to the top of my head.

9 MS. DEPRATER: Just curious. And then  
10 Question No. 2, under the outreach training, do you  
11 have an audit system in place for looking at the  
12 instructors and how well they teach for content,  
13 consistency, quality and retention because anybody can  
14 be a trainer but they need to be qualified, truly  
15 qualified? And I'm just wondering if you have anything  
16 in place that audits that. And as a recommendation, I  
17 know they fill out an evaluation in class, but it would  
18 be great to have something online where that feedback  
19 can come directly to OSHA in terms of how that  
20 instructor actually performed.

21 MR. MURPHY: Okay. To answer your first part  
22 of your question, as I mentioned earlier, we really

1 work closely with our OTI Education Centers because  
2 they are the ones who are providing those, the classes  
3 that are needed to become an outreach trainer. So we  
4 actually have a process of making sure that those  
5 trainers have the qualifications and experience, the  
6 time at work, you know, doing that in the industry to  
7 become an authorized trainer.

8           And then part of our monitoring program for it  
9 is to -- for those education centers to go out and do  
10 course evaluations of those instructors who are  
11 providing that training. So, yes, it does occur. So  
12 it's just not a paper audit. We do a lot of paper kind  
13 of records reviews and that sort of thing for the  
14 outreach trainers. Some of you may have heard that,  
15 you know, when they are submitting their paperwork, if  
16 it doesn't, you know, fit exactly the mold, things get  
17 kicked back and starts other kind of processes. Those  
18 do exist but, yes, we do work closely with them. The  
19 education centers, that's part of one of their  
20 evaluation matrix as an education center, as how  
21 they're doing on that. So we are also monitoring the  
22 monitors. So that is in place. The -- you bring up an

1 interesting point in terms of the -- having people  
2 evaluate the instructions and that coming right back to  
3 OSHA. Never thought about that before, but that's  
4 something that definitely I can -- I could take back  
5 and talk about and explore.

6 MS. DEPRATER: You need to tell your employer  
7 rep. The only reason I bring that up is it is very  
8 easy while you are in the class and you get the  
9 evaluation from the instructor to just put high marks  
10 on everything or something and it's -- you're not  
11 really getting feedback.

12 MR. MURPHY: Right. We -- there are actually  
13 -- when we've had some instructors out there that --  
14 we've had feedback from students -- let me just put it  
15 that way -- about maybe how an instructor presented  
16 themselves or presented OSHA, for example. They were  
17 concerned about something like that. And then we  
18 actually take that into account, and we actually look  
19 into those kind of concerns that come up. So we do  
20 take that feedback. We do have an email address on our  
21 public websites for the Outreach Training Program. We  
22 get a number -- thousands of questions a year through

1 that portal, of questions like that. So there is -- we  
2 do get feedback from students on things so -- but we  
3 definitely can look at if there is more of a formalized  
4 kind of evaluation, instructor evaluation, we could get  
5 back.

6 MS. CAIN: Hi. Chris Cain, Employee Rep.  
7 Thank you for your presentation. It was helpful. I  
8 had a couple of questions. Well, one -- first, a  
9 comment that, as part of the falls campaign that CPWR  
10 participates in along with NIOSH and, of course, the  
11 Directorate of Construction, I really appreciate the Ed  
12 Center's participation and have heard reports that they  
13 do a lot of activities around the falls campaign in the  
14 stand-down week, things like offering free courses and  
15 doing general outreach and kind of going the extra mile  
16 for the populations they serve around the country. Do  
17 you have any requirements on the Ed Centers if they  
18 choose to, say, give a free fall-protection course in  
19 conjunction with the stand-down week?

20 MR. MURPHY: What was the -- do we give any?

21 MS. CAIN: Do you have any requirements on  
22 them if they decide to give a free fall protection

1 course?

2 MR. MURPHY: We -- we don't have any  
3 requirements for it. We definitely take that into  
4 account when we do their annual evaluations of what  
5 they're -- what they're doing in terms of -- globally  
6 in terms of, you know, doing types of strategic  
7 initiatives, that sort of thing. So we take --

8 MS. CAIN: Construction industry --

9 MR. MURPHY: -- in service to the region.  
10 Yeah, to the region --

11 MS. CAIN: So that's a good thing --

12 MR. MURPHY: So that's a --

13 MS. CAIN: -- as far as --

14 MR. MURPHY: -- good thing for them.

15 MS. CAIN: Okay.

16 MR. MURPHY: Yeah. Some education centers  
17 struggle with it more than others based on their size  
18 and complexity.

19 MS. CAIN: And their operating budgets --

20 MR. MURPHY: And their operating budget.

21 MS. CAIN: -- and that type of thing.

22 MR. MURPHY: As I pointed out that these are

1 nonprofit organizations, they don't receive any funding  
2 from OSHA. They are -- there is a noncooperative --  
3 excuse me -- not a noncooperative. I misspoke on that  
4 -- nonfinancial -- very cooperative nonfinancial  
5 cooperative agreement that they work under. And so  
6 they have to have those processes in place. That's why  
7 they are living off of the tuition dollars that they  
8 charge.

9           So some of them are in a better situation than  
10 others. Some of them really try. They want to do  
11 things. And they will try to -- they even partner up  
12 with some other things that are going on so to look at  
13 that -- but we definitely take that into account when  
14 we are evaluating their performance.

15           MS. CAIN: Okay. Thank you. And then another  
16 thing -- well, just to preface this question is that  
17 this committee has been very engaged with the Outreach  
18 Training Program and how it works over the years. And  
19 looking back into the audience of some former ACCSH  
20 members who were very engaged on this topic and  
21 providing advice to DTE on how we operate, the Outreach  
22 Training Program, in particular, it does have such a

1 huge impact on the construction industry, who is, you  
2 know, subject to any kind of changes or rules. So I  
3 was just wondering if you could elaborate a little bit  
4 on some of the changes you're considering to the  
5 Outreach Training Program at this time.

6 MR. MURPHY: The -- there is a lot of  
7 different things that we've considered. We've talked  
8 about fraud and the cards and who do we need to take a  
9 look at, those kind of things. That's always kind of  
10 on the issue. We are constantly getting feedback  
11 through the education centers and, you know, the  
12 instructors through them. So we don't have anything  
13 specifically on the board in terms of any major changes  
14 right now. But we are always trying to improve the  
15 program. It's interesting how much of a gold standard,  
16 if you will, it's considered.

17 We have been, actually, contacted by other  
18 countries and asked to -- you know, can we provide  
19 information on the Outreach Training Program and, you  
20 know, if we wanted to do something like that in our --  
21 in their jurisdiction, what, you know, words of advice  
22 could we provide and some insight and guidance on that.



1 And so, you know, we've had, you know, a lot of years  
2 of lessons learned through the program and that we are  
3 able to provide if we could go back and do something  
4 over. We would definitely do it. Sometimes that's  
5 harder to do now based on, you know, processes that  
6 have been set up and expectations on certain things and  
7 that sort of thing. But there is nothing specifically  
8 in terms of any major changes to the program that are  
9 being considered at the moment.

10 MS. CAIN: I was under the impression that you  
11 had solicited advice from the OSHA Training Institute  
12 Education Centers, along with the executive committee,  
13 on changes that they would recommend that OSHA  
14 implement.

15 MR. MURPHY: Well, we -- we talk about it.  
16 One of the things that -- when I became the deputy at  
17 the directorate is to -- I needed some advice and, you  
18 know, how are things going. OSHA does not have any  
19 plans on changing the outreach program. We wanted to  
20 know, you know, how is the program functioning. Is  
21 there something that we need to look at to change or  
22 modify to have -- to improve the service of it or reach

1 a particular worker group or population, that sort of  
2 thing.

3           So it's just information that we just -- you  
4 know, how are things going because it's -- we didn't  
5 want to operate in a vacuum. And we wanted this to  
6 have some -- a good feedback and have a -- again, a  
7 cooperative relationship with our education centers as  
8 they help us administer that program.

9           MS. CAIN: And then I just -- a remark at the  
10 end. It may be interesting for the public to be able  
11 to view some of the webinars that you use to do  
12 distance learning with OSHA. If they are available to  
13 the public at any time in the future, I think folks  
14 might appreciate that.

15           MR. MURPHY: A lot of our webinars are -- we  
16 talk about things that are -- that deal with the  
17 enforcement part of it in terms of the legal  
18 sufficiency of certain issues, that sort of thing. So  
19 some of those -- that those webinars deal with, you  
20 know, legal sufficiency and case files and what is  
21 needed to substantiate a violation that -- so that was  
22 something that we would definitely need to vet through

1 the department to see if anything like that could be  
2 put public-facing.

3 MS. CAIN: Sure. Thank you.

4 MR. MURPHY: Mm-hmm.

5 MR. CANNON: All right. Thank you, Robert.  
6 Good presentation. Good questions and discussion. So  
7 it's time for our next speaker.

8 MR. MURPHY: Thank you very much.

9 MR. CANNON: All right. Our next speaker is  
10 Scott Earnest with NIOSH. Scott is -- it doesn't have  
11 your title here, Scott. But Scott is going to give us  
12 an update on what NIOSH is currently working on as it  
13 relates to construction.

14 MR. EARNEST: Okay. Thank you, Mr. Chair.  
15 I'm the deputy director for the Office of Construction  
16 Safety and Health at NIOSH. And I'm going to give,  
17 initially, an update, a little bit about NIOSH and  
18 background for NIOSH and then really get into some  
19 detail and some of the things that are going on in the  
20 construction program, how we operate and some of the  
21 priorities.

22 So the first thing I wanted to say is that, in

1 terms of the way we are organized, NIOSH is a -- you  
2 know, completely separate agency from OSHA within the  
3 federal government. But we were created under the OSHA  
4 Act. OSHA was put in the Department of Labor as well  
5 as MSHA. You know, they do the standard-setting and  
6 enforcement. But NIOSH, on the other hand, was created  
7 for education and research. And we were put under the  
8 Department of Health and Human Services, the Center for  
9 Disease Control so two completely separate agencies.

10 But we interact extremely closely, especially  
11 when it comes to construction. In terms of the NIOSH  
12 facilities and where we're located, we're kind of all  
13 over the country. But if you look at the -- where the  
14 actual work gets done, Ohio, Pennsylvania, West  
15 Virginia, D.C., that cluster of red dots in that area  
16 probably represents 75, 80 percent of all the employees  
17 within the institute.

18 You know, Cincinnati -- Cincinnati just went  
19 through a reorganization but we have chemistry labs  
20 there or industrial hygienists that go out and do  
21 health hazard evaluations. We have a industry-wide  
22 studies group that looks at epidemiological aspects of

1 disease and industry. In Morgantown, there is a  
2 division of -- Morgantown, West Virginia is Division of  
3 Safety Research and Health Effects Laboratory Division.  
4 Up in Pittsburgh, there is a mining research that goes  
5 on there.

6           So -- but in addition to the labs that are in  
7 those areas, we also have a -- in addition to the  
8 headquarters in Washington, D.C. -- but we also have  
9 one in Atlanta, Georgia located with the headquarters  
10 for the Center for Disease Control, our parent  
11 organization. And we have offices out in Denver,  
12 Colorado; Spokane, Washington; as well as Anchorage,  
13 Alaska.

14           I wanted to mention the educational research  
15 centers that we fund. There is 18 of them all over the  
16 country. And they are funded to not only do research  
17 but also to train graduate-level professionals and  
18 occupational safety and health. So I'm sure probably  
19 quite a few people in this room have gone to some of  
20 those universities to get their training and education  
21 in occupational safety and health. But we fund them.  
22 And they really do a lot of great work for us.

1           In terms of our resources, we've been fairly  
2 steady in recent years. The staff for 2019 is a little  
3 under 1100 employees. So we're really pretty small.  
4 Total budget ranges, you know, between, you know, \$300-  
5 , \$400 million annually. And then if you look at the  
6 breakdown of those funds, this shows that, you know,  
7 the internal funding for internal research and paying  
8 salaries and all of that, that's a little under \$250  
9 million a year.

10           And we sent about a third of that extramurally  
11 through grants and cooperative agreements. A  
12 substantial amount of that is used for construction  
13 because construction is an extremely high priority  
14 within the institute. So as far as the NIOSH  
15 Construction Program, the mission of the program is to  
16 eliminate construction fatalities, injuries and  
17 illnesses through a focused program of research and  
18 prevention. It's a high priority because, if you look  
19 at all the fatalities and injuries and illnesses that  
20 occur, construction workers tend to be  
21 disproportionately affected.

22           If you look at data from 2014, one in five

1 deaths in the U.S. occurred in the construction  
2 industry. So construction had about 6 percent of the  
3 workforce that represented about 17 percent of the  
4 fatalities. So that's why it's such a high priority  
5 for us and why we put the resources into it that we do.

6           And then, you know, if you look the industry,  
7 we get into all sorts of different issues affecting the  
8 construction industry, whether it be working with the  
9 homebuilders on residential construction, heavy and  
10 civil construction, the specialty trades. You know, we  
11 look at all the different trades such as electricians,  
12 carpentry work, iron workers, laborers and really the  
13 whole gamut. We get involved in it. We've got studies  
14 going on in really a lot of different areas. Now, the  
15 way our -- the way our program is organized, there is  
16 really three sort of -- three areas. There is the  
17 intramural research.

18           Again, that's the NIOSH staff, whether it be  
19 civil servants or Commissioned Corps officers or  
20 contractors that are actually working in the  
21 laboratories or in the field conducting research and  
22 publishing papers and trying to see that that research

1 has a maximum impact. But we also fund universities  
2 for extramural research. So there is a number of  
3 different projects going on all over the country.

4           You know, we funded Virginia Tech and, you  
5 know, University of California Los Angeles. Just  
6 really all over the country, there is universities that  
7 we fund and support research for the construction  
8 industry. But one of the things that's unique within  
9 NIOSH about the construction program is that we fund a  
10 National Construction Center.                   That's one of  
11 the largest amounts of money that we put out every year  
12 to really help us with -- one of the big things that  
13 the National Construction Center does is really help  
14 focus the research that we're doing and trying to get  
15 that turned into practice to really make an impact. We  
16 don't want to just publish papers and have it sit on a  
17 shelf and collect dust. We want this research to  
18 result in impact. It's going to be a positive impact  
19 for the industry and for the workers.

20           So anything we can do to make that happen, you  
21 know, we're going to try to do that and we try to  
22 emphasize that with everybody that's doing research as



1 part of the NIOSH effort. Now, there is a couple of  
2 things that guide the work that we do. One is the  
3 National Occupational Research Agenda for the  
4 construction industry. And a lot of folks sitting  
5 around this table and in the room have actually been  
6 involved in helping to develop that.

7           So I just wanted to say thank you for that.  
8 There is actually 16 different objectives that are laid  
9 out on this slide. This document -- it's probably  
10 about an 80-page document that explains why these  
11 research objectives are important for the construction  
12 industry. And so it goes from, you know, everything  
13 from falls from elevation to struck-by to preventing  
14 electrocutions, small business issues, prevention  
15 through design.

16           It's really -- it's a very broadly-written  
17 document. But it's for the nation. It's for  
18 everybody, not just -- not just NIOSH-funded  
19 researchers but folks that aren't being funded by NIOSH  
20 that have the capacity to conduct research. These are  
21 objectives for them to work towards to advance  
22 construction safety and health.

1           And then, internally, we have developed a  
2 strategic plan and strategic goals under that strategic  
3 plan. And that's much more focused because of the  
4 limited resources that we have. You know, a decision  
5 was made by Dr. Howard and the rest of the leadership.  
6 We can't do it all. So we really need to focus on the  
7 most important factors, most important issues for our  
8 industry. And so the internal strategic plan, the way  
9 that was developed, was using a matrix approach.

10           So under NORA, we have 10 base -- 10 industry  
11 based sectors. You know, there is construction,  
12 manufacturing, transportation and warehousing. Each  
13 one of those has a -- you know, a leadership group and  
14 a sector council. And then we have cross sectors that  
15 are based upon health effects so, for example,  
16 musculoskeletal disorders, hearing loss prevention.

17           So the leadership for each of those sectors  
18 and cross sectors sat down and discussed goals and  
19 things that were important for either their sector or  
20 cross sector and developed the strategic plan with  
21 input from others within the institute and also  
22 interacting with folks outside. And so, if you look at

1 the list of topics here, there is seven specific topics  
2 that are part of this strategic plan matrix. The ones  
3 that are in red are the ones where we actually have  
4 written specific goals, activity goals, for  
5 construction so hearing loss, musculoskeletal  
6 disorders, respiratory disease, traumatic injury and  
7 then healthy work design and well-being.

8           So that's kind of a -- that's kind of how we,  
9 you know, focus our efforts on construction safety and  
10 health research. The other thing that we look at a lot  
11 is we look at the data. And these are some charts from  
12 CPWR quarterly data report. I don't know how familiar  
13 you are with a lot of the statistics at CPWR, the  
14 charts that they put out through Sue Dong and the data  
15 center.

16           But if you are not familiar with it, I  
17 recommend you get familiar with it because it's really,  
18 really great information, very good data. And it  
19 really helps drive a lot of what we do as well. And so  
20 when you read through, like, the NORA agenda, you read  
21 through the strategic plan, there is a lot of  
22 references to the chart book and the data that comes

1 out of CPWR. And this is just data that kind of shows  
2 the fatalities. On the left-hand side, the bar chart  
3 in red is showing the annual fatalities that occur. So  
4 it ranges from a high in 2015 of around 1300 fatalities  
5 in the industry to a low around 2003 or so of 781.  
6 There is some correlation there between the numbers  
7 that are occurring each year and the number of workers  
8 in the industry and the recession that occurred.

9           But again, unfortunately, again, this is a  
10 little bit dated but, you know, again, construction is  
11 at the top. It's got higher fatality rates than  
12 transportation, ag, wholesale and retail trade. And  
13 then if you look at the causes or what -- let me see if  
14 I can advance here. If you look at, you know, what was  
15 the cause of those fatalities, the pie chart on the  
16 left sort of shows some of the factors that resulted in  
17 those fatalities. And it's sort of -- you know, some  
18 of this sort of aligns with the -- you know, the --  
19 OSHA's focus for, you know, the fatal incident.

20           So, you know, the red is slips, trips and  
21 falls. That would include falls from elevation.  
22 That's 35 percent of all of them, I believe. And then

1 transportation was 29 percent. Contact with objects is  
2 15 or 16 percent. And then over on the right-hand side  
3 is data based upon, you know, the trades and what  
4 trades are suffering the highest rates of fatalities.  
5 And then the bar chart on the right, it shows that the  
6 highest numbers are with powerline installers, roofers  
7 and iron workers.

8           So all of this data, you know, feeds into the  
9 planning that we do, the decisions we make moving  
10 forward. And then the other thing that we really look  
11 at is we use something called burden, need and impact.  
12 And those that are on the sector counsel, I'm sure, are  
13 pretty familiar with this. This is a paper that was  
14 published by some of the folks, some of the leadership  
15 within our institute.

16           But, really, what burden, need and impact is  
17 about is looking at -- you know, burden is the number  
18 of workers that are being impacted by the particular  
19 issue, you know, how many fatalities have occurred or  
20 how many workers are getting exposed to silica and  
21 suffering from silicosis or, you know, whatever the  
22 particular hazard is.

1           Need really gets to, you know, how important  
2 is this issue, you know, within the industry and, you  
3 know, what is needed to address it. Is it something  
4 that NIOSH is best suited to address, or is it  
5 something, you know, that, you know, Liberty Mutual  
6 could take a look at or a university. You know, what  
7 exactly is the need? And who -- what organization is  
8 best to take that on? And then, you know, I sort of  
9 talked about impact previously.

10           You know, we want to really make a difference  
11 and try to impact those numbers. Now, the next -- the  
12 remaining slides kind of get into some specific things  
13 that we've done within the construction program. A  
14 little bit of trouble with the clicker here but --  
15 there. So just to go quickly, you know, falls is  
16 really the number one issue. So we work really closely  
17 with OSHA, with CPWR, on the falls campaign and the  
18 stand-down.

19           A lot of this originated out of deliberations  
20 amongst the sector counsel. And as part of the falls  
21 campaign and the stand-down, we've developed a number  
22 of communication that have come out of that. For

1 example, we did a science blog every year around that -  
2 - around the time of the falls campaign and the stand-  
3 down. We communicate through the science blog.

4           We have also developed a number of videos  
5 related to the campaign talking to different  
6 stakeholders about, you know, why the stand-downs are  
7 important, how they go about conducting stand-downs and  
8 how other companies can do that. So we've got a number  
9 of, you know, short videos, five minute videos or so  
10 that get into the perspective of an OSHA area director,  
11 insurance company, small businesses, lots of good  
12 information on the videos that we put out there.

13           And then we also spent a lot of time talking  
14 with reporters about various things. This was a  
15 article that was published. And it ended up being  
16 picked up by NBC News about, you know, the falls  
17 campaign and just the problem of workers falling and  
18 dying.

19           There has been a number of discussions over  
20 the last day or so about opioids. And NIOSH, as well  
21 as CDC, is continuing to do a fair amount of work on  
22 opioids. In 2017, there were about 48,000 overdose

1 deaths in the U.S. In 2016, there were more overdose  
2 deaths than auto fatalities in the U.S. And so the  
3 document on the left-hand side is a document that talks  
4 about how to respond to a suspected opioid overdose.

5           And it gets into steps such as assessing the  
6 scene, calling trained staff, making sure you put on  
7 personal protective equipment. So it goes through the  
8 step by-step process of what to do in the workplace if  
9 you suspect an opioid overdose. And the work that  
10 we're doing on opioids really involves the entire  
11 institute. I mean, there is -- it's being led out of  
12 our Total Worker Health Program, Casey Chosewood. But  
13 there is groups all over the institute that are working  
14 in this area.

15           Another document that just came out in the  
16 last several months was a workplace solution. It was -  
17 - Dr. Howard, our director, was actually the lead  
18 author on this. But it was about medicated assisted  
19 treatment for opioid use disorder. And, basically, it  
20 gets into the fact that the societal cost of this  
21 problem is estimated to be around \$78 billion. There  
22 is a number of job factors that can play into it such



1 as demands on the job, job insecurity, lack of control  
2 over what you are doing on a day-to-day basis. There  
3 is a lot of different factors.

4           But then it talks about the use of this  
5 medication assisted treatment which involves use of  
6 medication, counseling and behavioral therapies. So  
7 that's a document just a few months old that's really  
8 interesting. It's got some good tips in there that  
9 could be helpful to companies. And then we've also put  
10 out a number of publications. This is a journal  
11 article on overdose deaths. It really looks broadly  
12 beyond just the construction sector. But it indicated  
13 between 2011 and 2016 there were 760 workplace drug  
14 overdoses. Eighty-four percent of those affected men.

15           And the fact that the fatality rates were  
16 increasing on an annual basis, it looked at, again, a  
17 variety of different industry sectors. The highest --  
18 the highest rates were with transportation and the  
19 mining industries. The highest percentages were for  
20 transportation and construction.

21           It also indicated that about a third of the  
22 fatalities that occurred, occurred in small businesses,

1 businesses that had fewer than 10 employees. And it  
2 also -- this article talked about heroin as being the  
3 most frequent drug that resulted in workplace overdose  
4 deaths. And that represented, I think, about 17  
5 percent.

6           And, again, suicide has been talked about  
7 somewhat as well. And we've done a number of studies  
8 related to suicide. The article up in the top right-  
9 hand corner, suicide and drug-related mortality  
10 following occupational injury just came out and was  
11 published in the American Journal of Industrial  
12 Medicine. The authors of that are going to be  
13 participating in the OSHA alliance meeting in September  
14 and talking about that paper. But, basically, that  
15 paper draws a link between workplace injury and the  
16 potential or the likelihood of somebody suffering from  
17 opioid overdose or even a suicide.

18           So there is, you know, at least a initial  
19 indication that there is a relationship between all  
20 three of those issues, and that paper discusses that.  
21 We also put out a science blog in the last six months  
22 or so related to stress on the job and interventions to

1 reduce stress. That science blog gets into issues such  
2 as the impact of stress resulting in absenteeism,  
3 turnover, loss of productivity.

4           And it talks about how -- they looked at  
5 stress reducing programs in a number of different  
6 companies and talked about how a lot of the focus of  
7 those efforts were on ways to increase tolerance of the  
8 individual as opposed to ways to look at the  
9 organization and modify the job to address that stress,  
10 which is really, I think, a better approach.

11           If you can -- if there is ways to modify the  
12 job to reduce stress on the employees rather than just  
13 keeping things the same as the way they always are and  
14 just helping them to cope. And I think both are  
15 important. But they said that, in the studies they  
16 looked at, there was a lot more emphasis on coping  
17 strategies as opposed to job modifications to address  
18 the stress.

19           So I'm going to try to speed along because I  
20 know we're running short on time, but we've done a fair  
21 amount of work on ladder safety. This just shows a  
22 image that was put into the ANSI A14 standard for

1 ladders. It's based upon NIOSH research on how to set  
2 up an extension ladder properly to help reduce falls.

3 I also wanted to mention, on the topic of  
4 falls, we have had some interactions over the last six  
5 months with the health and safety executive in the U.K.  
6 That's a group we interact with a fair amount on a  
7 number of different topics. The interesting thing here  
8 is that they use technology that's not being used in  
9 the U.S. They are trying to look at the efficacy of  
10 it.

11 It's sort of like a pole-vaulting mat that  
12 they set up around -- I think mostly around homes to  
13 try to break the falls of workers. And they are  
14 looking at how effective it is. It's being used, you  
15 know, a number of different applications, but  
16 homebuilding is one of them in the U.K.

17 We put out a blog back in -- I guess last  
18 month on trenching safety. This blog gets into a  
19 number of different alternatives to trenching such as  
20 cured-in-place pipe, pipe ramming, directional boring.  
21 So you could look at our website and see that. We've  
22 also done a fair amount of work recently on

1 electrocutions. Wanted to call out Wes Wheeler and  
2 NECA, was a big help with this blog, also CPWR.

3           Actually, this is a quarterly data report that  
4 CPWR had put out some time ago, a couple years ago, on  
5 electrocution, showing the bar -- you can't see the  
6 whole bar chart because of the image of the room. But  
7 it's a fairly nice downtrend for a number of years on  
8 electrocutions. But we did a blog on this, in part,  
9 based upon a report that was put out by the NFPA  
10 showing that, even though there is a nice downtrend,  
11 there is still really way too many electrocutions that  
12 are occurring.

13           And, unfortunately, a lot of the folks that  
14 are getting electrocuted are contractors in the  
15 construction industry. I also wanted to thank Kevin  
16 because he put me in contact with a number of big  
17 contractors at one of the AGC meetings. I was able to  
18 sit down and talk to and get their input on some of the  
19 input for this blog.

20           We also have a very important initiative on  
21 the future of work and emerging technologies.  
22 Leadership at NIOSH is going to be setting up a series

1 of meetings to discuss that. And we've got either  
2 ongoing current research on a number of different new  
3 technologies or planned research in this area. So, for  
4 example, nanotechnology, that's something we've been  
5 working on for some time.

6 But there is a lot more to be done, things  
7 related to additive manufacturing and 3-D printing, use  
8 of AI for safety, modeling and simulation, robotics so  
9 just a lot of different things coming down the pipe  
10 that are going to affect the construction industry.  
11 And we're, you know, working on it, trying to get a  
12 better handle on it and try to really understand how is  
13 this going to affect workers and is there -- you know,  
14 what are the positives but what are -- also, what are  
15 the potential negatives or pitfalls with the -- you  
16 know, this technology being adopted.

17 We did a journal article on additive  
18 manufacturing. This is kind of tied in with the future  
19 of work. And, basically, they just looked at exposures  
20 where additive manufacturing is being used. That's,  
21 you know, like a 3-D printer where you're basically  
22 developing products with joining very small amounts of

1 material. And they look mostly at inhalation exposures  
2 and dermal exposures. And this paper discusses some of  
3 the findings of that. Also, our FACE program has been  
4 doing some things on automation, robotics.

5           There was an article in a trade journal  
6 publication recently about an entire shopping mall  
7 being taken down by about six robotic -- demolition  
8 robots. And our FACE program out in Washington  
9 actually wrote a hazard alert about several workers  
10 that were injured by some of these demolition robots.  
11 So there is -- you know, there is potentially some  
12 downsides, some negatives things that can occur with  
13 use of robotics. But there is also potential positive  
14 aspects.

15           I've been interacting with a professor out in  
16 the Midwest that's looking at roofing applications and  
17 the development -- he's got a lot of experience in  
18 developing robots for healthcare. He is interested in  
19 taking that knowledge and expertise and potentially  
20 applying it to roofing. So, anyhow, he's putting some  
21 study proposals together. We've done things on drones.

22           I had an email with our director recently.

1 And there was a piece in the news about these window  
2 washers that were up on, like, the 40th floor during  
3 high winds on a hanging scaffold getting banged back  
4 and forth between, you know, plates of glass.

5           And we started looking into this whole  
6 application a little bit more and found out there is  
7 actually a robot for window-washing now. There is an  
8 Israeli-based company that, if you go to their website,  
9 you can get on there and see a robot on a hanging  
10 scaffold. So instead of exposing workers at those high  
11 elevations, you've got a robot up there that's doing it  
12 and being exposed to the hazard rather than human  
13 beings.

14           Just I'm going to try to finish up here real  
15 quick because I know I've been going for a while. But  
16 we are supporting Bill Perry's group on the expansion  
17 of Table 1 for the silica standard. We are also  
18 working with CPWR, OSHA and AEM on something that's  
19 already in Table 1, which is enclosed cabs for  
20 controlling silica exposures and trying to develop some  
21 materials that will explain how to go about  
22 implementing that and be in compliance with Table 1.



1           A lot of you are probably familiar with our  
2 noise measurement app. We just, in the last month or  
3 so, came out with a Spanish-based version of that app.  
4 It's a pretty popular app that we have. We've got a  
5 number of different studies going on related to helmet  
6 design.

7           I think Turner Construction and Liberty Mutual  
8 and some others have been funding some of that work  
9 that Dr. Chris Pan in our Division of Safety Research  
10 is doing. We've got a number of new projects that were  
11 just funded. So we've got a new project starting on  
12 stone countertop, grinding and polishing, a new project  
13 on use of exoskeletons for -- on elevated work  
14 platforms.

15           We've got an individual in Morgantown looking  
16 at footwear and slip potential as well as MSDs, a  
17 project on cured-in-place pipe so just a number of  
18 different new projects that are starting up for the  
19 construction industry. And then the last thing I just  
20 wanted to mention, Dr. Howard, our director, is -- you  
21 know, really feels that stakeholder input is important.  
22 We went through a program review for our program about

1 a year and a half ago working extremely closely with  
2 CPWR putting together an evidence package.

3           We ended up having five chapters that  
4 constituted that evidence package, one on silica, one  
5 on noise and hearing loss prevention, one on MSDs, one  
6 on work zone safety and one on fall prevention. We had  
7 a panel of five experts that reviewed the package and  
8 made a series of recommendations to us. And we are  
9 just getting started with developing a plan of  
10 implementation for the recommendations that they made.  
11 And that concludes my update. Any questions?

12           MR. CANNON: Thanks, Scott. Good  
13 presentation. I think it highlights all the good  
14 things that NIOSH is doing to help the men and women in  
15 construction. And I just want to give you and Chris  
16 credit for you all's leadership so good job. Any  
17 questions for Scott? Yes?

18           MS. DEPRATER: Cindy Deprater, employer rep.  
19 Scott, with all of these great videos that you guys are  
20 creating, have you thought about -- and maybe you  
21 already have this -- a poster or something that has,  
22 like, QR codes? You can access those through YouTube

1 where the workers in the field -- they are walking up  
2 to start their fall protection, literally can click on  
3 a five-minute video and figure out --

4 MR. EARNEST: Yeah, yeah. No, we have had  
5 some --

6 MS. DEPRATER: -- how they can do it.

7 MR. EARNEST: -- discussions about that. And  
8 I think there is some things in the works.

9 MS. DEPRATER: Good.

10 MR. EARNEST: But, no, that's a great idea. I  
11 know we have had some discussions. But I don't know if  
12 anything is out there yet with this. Thanks for  
13 mentioning that.

14 MR. CANNON: I have a question. You had the  
15 slide that said NIOSH supports OSHA's efforts with  
16 Table 1. Are you guys engaged in any type of -- you  
17 know, what efforts are you putting forth? Like any  
18 sampling going out because we heard that, you know,  
19 we're going to need data --

20 MR. EARNEST: Yeah, yeah.

21 MR. CANNON: -- to --

22 MR. EARNEST: Interestingly, you know, with

1 the -- I didn't mention this earlier, but Dr. Branch  
2 has been out for a year. Allen Echt was kind of one of  
3 our leads. He is kind of like the silica expert for  
4 the Institute. Well, he's now joined the construction  
5 office. And so he's kind of handing some of that off.  
6 But it's being run out of our HETAB group, the Hazard  
7 Evaluations and Technical Assistance Branch. And they  
8 are going out and doing a number of field studies.  
9 They have done a number of them already. And they've  
10 got -- you know, I don't have all the details of what  
11 all they are going to look at but quite a few different  
12 processes they are going to be collecting data on.

13 MR. CANNON: Any other questions for Scott?

14 All right. Well, thank you, Scott.

15 And our next agenda item is an update from the  
16 Office of Communications.

17 MS. SCOTT: Good afternoon. My name is Gina  
18 Scott. I'm the deputy director of OSHA communications,  
19 the Office of Communications, or, as we are called in  
20 OSHA speak, OOC. Can everyone hear me okay? Okay.  
21 Thank you.

22 So I'm going to give you an update on some of

1 the items that we've been working on here in  
2 communications. OOC is a full-service communications  
3 office. That's a part of the Office of the Assistant  
4 Secretary. My office promotes OSHA information,  
5 services and resources and a variety of stakeholder --  
6 to a variety of audiences, stakeholders and the public.  
7 And we do this through various sources.

8           As you can see on the screen, I'm just going  
9 to highlight a few of them, managing the content and  
10 design of OSHA's website, working with the trade press  
11 and issuing news releases, drafting and disseminating  
12 OSHA's newsletter, QuickTakes, which goes out to nearly  
13 260,000 subscribers. We also create content for OSHA's  
14 Twitter account and the department's social media  
15 platforms. And we design and produce and distribute  
16 OSHA publications, for example, the it's-the-law  
17 poster, trenching and fall safety stickers. You may be  
18 familiar with the slope-it-or-shield-it trenching  
19 sticker. Our office produced that along with fact  
20 sheets and quick carts.

21           These are just a few of the many tasks that  
22 our small but active office does to achieve OSHA's

1 mission. OOC is continually reinventing our approach  
2 to meet a constantly changing world. Our office  
3 analyzes the interest and concerns and information  
4 that's needed by distinct audiences. And we seek to  
5 engage them with tailored messaging.

6           And this includes engaging our area offices  
7 and our regional offices as well. We use data  
8 analytics in conjunction with user and stakeholder  
9 feedback to measure how we're doing and what changes to  
10 make. But our goal, basically, in all cases is to  
11 create awareness of OSHA's mission and services and to  
12 motivate each stakeholder group such as yours to act in  
13 the best interest of worker safety.

14           So that's OSHA's website. And our website has  
15 thousands of pages on it if you visited it. And there  
16 are tons of safety and health topics. Cooperative  
17 programs, campaigns, publications, standards,  
18 enforcement and data are just a few of the items that  
19 are there. In 2018, the website received 44 million  
20 visits from 19 million unique visitors. So on an  
21 average, visitors spend 3.1 minutes on our website,  
22 which is above the industry average.

1           Using data analytics, we are constantly  
2 looking at ways to improve the website and to increase  
3 usability. One particular stat that jumped out at us  
4 is that 30 percent of the users access the website on -  
5 - using their mobile devices. So we take that into  
6 consideration when we are creating pages, revamping  
7 pages, etc. Our design efforts aim to limit the number  
8 of clicks for users to find the resources that we do  
9 have on the site.

10           So we are redesigning a lot of our major  
11 landing pages to help users find the information that  
12 they need. Some recent examples would be our  
13 regulations page, our enforcement page, the training  
14 page and also our publications webpages. And so we'll  
15 continue these efforts with other popular pages. I'm  
16 just advancing.

17           There we are. So, QuickTakes, that's our e  
18 newsletter. So QuickTakes is one of the agency's most  
19 effective outreach tools. I mentioned earlier that we  
20 are just shy of 260,000 subscribers. So the free  
21 newsletter is emailed twice a month to subscribers.  
22 And it highlights initiatives, resources, cooperative

1 programs, enforcement actions, etc. and -- okay. Not  
2 on that monitor but on this monitor here, you can see  
3 osha.gov/quicktakes is how you can subscribe to the  
4 newsletter.

5           In the area of social media, OSHA was the  
6 first DOL agency to launch its own Twitter account  
7 after several years of providing content to the  
8 Department of Labor. So the @osha\_dol account has  
9 attracted more than 16,000 followers and continues to  
10 gain followers every month. OSHA also contributes  
11 posts to other social media platforms, including DOL's  
12 blog, Instagram, Facebook, LinkedIn pages, etc.

13           In all of our social media messaging, we are  
14 looking at data from previous posts to determine what  
15 types of content resonates best with our audience and  
16 what leads to the most engagements. Our goal is to get  
17 users to share or retweet our content so that the  
18 message is spread as widely as possible. We have found  
19 that messages with graphics, for example, our "water,  
20 rest, shade" graphic or an action -- that are action-  
21 oriented tend to do best, such as never in an  
22 unprotected trench, etc.



1           Content from the fall stand-down and heat  
2 campaigns also produced positive results because these  
3 events have multiple partners. And what that means is  
4 that those multiple partners help us spread the  
5 message. As far as new outreach tools, our drive is to  
6 consistently reexamine and improve our efforts. That's  
7 led to the creation of a few new outreach tools.

8           Our did-you-know, which is also called DYK,  
9 emails go out to QuickTakes subscribers. And our tips  
10 of the week are posted on the OSHA homepage and emailed  
11 to those folks who subscribe to them. The DYK emails  
12 provide us an avenue to highlight available resources  
13 on a particular topic that's either of a major  
14 initiative or on a topic that we think that needs  
15 attention such as work zone traffic safety, training or  
16 heat.

17           The tips of the week allow us to highlight  
18 solutions to specific hazards. The tips link back to  
19 resources, which provide more information about a  
20 particular topic. Users can find the tips on our  
21 homepage, or they can sign up to receive them by email.

22           This is an example of an OSHA alert, another

1 new outreach tool that we started. Alerts highlight  
2 issues in a timely way and include all of OSHA's  
3 available resources on a topic in one short blast. We  
4 have issued alerts on flooding, trenches, forklifts and  
5 heat safety.

6           Finally, we are developing new videos to share  
7 our message in an easier to absorb and more engaging  
8 way. We understand that a lot of our audience does not  
9 want to read paragraphs of text about a topic and that  
10 in many situations, videos make a message more  
11 accessible. We have -- obviously, as it relates to  
12 training as well. One of our recent videos described  
13 the inspection process under the agency's Regional  
14 Emphasis Program on ammonium nitrate.

15           We developed this video as part of our  
16 alliance with the Fertilizer Institute and Agricultural  
17 Retailers Association to help alleviate employers'  
18 concerns about OSHA inspections under the Regional  
19 Emphasis Program and to build trust within the  
20 community. The video was well-received. So we've  
21 decided to create a more general inspection process  
22 video for the rest of our regulated community. In

1 fact, a couple of our staffers just returned from  
2 Chicago out at DTE working on that video. And we hope  
3 to have it available very soon.

4           So we use a lot of the tools that I've shared  
5 with you to share OSHA information and resources as  
6 widely as possible. More importantly, we want to move  
7 beyond engagement and help change behavior. To get  
8 there, we need your feedback. If there are resources  
9 you think we should provide, tell us. If there are  
10 something on our webpage or in our publications that  
11 you think that we could do better, tell us.

12           If there is anything that we should be doing,  
13 tell us that too. Help us help you. We share the goal  
14 of making the agency as effective as possible so that  
15 every construction worker will come home safe and sound  
16 at the end of the shift. So I thank you for this  
17 opportunity to talk with you, and I'm open for  
18 questions, comments and, of course, ideas. Thank you.

19           MR. CANNON: Thank you, Gina. Any questions?  
20 Ron?

21           MR. SOKOL: Ron Sokol, public representative.  
22 First of all, I'd like to just congratulate you to

1 continue to look at new outreach tools and -- on how to  
2 effectively interact with the changing age issues of  
3 the workplace from the younger to the older. I think  
4 you're really forward thinking in that. With that  
5 comment, have you thought about linking the top 10 OSHA  
6 violations in construction to education that talks  
7 about the content, educating of the employer and the  
8 worker and the possible solutions for -- for hazard  
9 abatement and hazard recognition because when we -- we  
10 look at the OSHA statistics, those top 10 seem to  
11 always be the same top 10.

12 MS. SCOTT: They are -- in different order.

13 MR. SOKOL: So, you know --

14 MS. SCOTT: Yeah, exactly.

15 MR. SOKOL: -- instead of just them finding it  
16 -- but any time that you would even have a search for  
17 that issue even in the standard that it would have a  
18 way to highlight that that's a top 10, you know, where  
19 it draws the attention that, you know, there needs to  
20 be some understanding and then some content and  
21 education. And then, most importantly, what are some  
22 solutions to be able to protect the workers that may be

1 exposed to the top 10 issues. So that was just a  
2 comment to think about.

3 MS. SCOTT: Okay. Thank you. I appreciate  
4 it. Perfect.

5 MR. CANNON: Anyone else?

6 MS. CAIN: Chris Cain, Employee Rep. I've  
7 noticed a big difference over the last few years of --  
8 with OSHA's communication products. And I wanted just  
9 to acknowledge that and say thank you. I think you are  
10 moving in the right direction on --

11 MS. SCOTT: Thank you, Chris.

12 MS. CAIN: -- content, style assortments.  
13 It's important. And people want to hear from OSHA. So  
14 it's really important.

15 MS. SCOTT: Thank you. And thank you for  
16 helping us.

17 MR. CANNON: Anyone else?

18 Thank you, Gina, for the presentation.

19 MS. SCOTT: Okay. Thank you.

20 MR. CANNON: All right. It's time for break.  
21 We're scheduled for break until 2:45 so see everyone  
22 back then.

1 (Brief recess taken.)

2 MR. CANNON: And, you know, as everyone, you  
3 know, can see, we don't have any work groups currently.  
4 So this is an opportunity for us as a committee to kind  
5 of discuss and decide on which work groups are  
6 necessary at this time, and then as -- another piece of  
7 that is who is going to lead these work groups.

8 You know, I think it was Chuck that made the  
9 statement yesterday during the orientation that work  
10 groups is where a lot of the work gets done that the  
11 committee, you know, kind of focuses on. In the past  
12 they've been aligned with rulemaking initiatives. I  
13 remember there was once upon a time the one, the Injury  
14 and Illness Prevention Program Work Group, which  
15 ultimately recommended that OSHA update the 1989  
16 guidelines, which got us what Bill reported on this  
17 morning, the 2016 version of it.

18 And then, you know, we've had, you know, the  
19 Outreach and -- the Training and Outreach Work Group.  
20 You know, we kind of worked really closely with DTE to  
21 revise the intro to both the 10 and 30 hour as well as  
22 -- I don't know if it was out of the work group, but

1 the FSL was also something that was put forward to DTE  
2 as far as being included into the Outreach and Training  
3 Program.

4 So, you know, at this time I'll, you know,  
5 kind of turn it over to Scott really quickly so he can  
6 give us kind of what, you know, the DOC is expecting as  
7 far as work groups. You know, the number and how we're  
8 going to split it up with leadership and so on.

9 MR. KETCHAM: Thank you, Kevin. This is Scott  
10 Ketcham, for the record. In the past work groups that  
11 we had, we've had five in the past, and those work  
12 groups in our ACR are Backing Operations, Diversity,  
13 Multilingual and Women in Construction, Health Hazards,  
14 Emerging Issues and Prevention Through Design, Injury  
15 and Illness Prevention, and Training and Outreach.

16 And one of the things that -- from DOC's  
17 perspective in this, is that we've learned that in  
18 order to get a breadth of experience from all members  
19 into each one of these, it makes it difficult to manage  
20 that many work groups. In order to split it 50/50 so  
21 that we've got, you know, an adequate amount of people,  
22 representation from all our parties, we believe that we

1 should start -- we should think start -- of starting  
2 with work groups with two.

3           And there are two that we put some thought  
4 into that we think would be good. It's obviously --  
5 it's your committee. You know, we'd like to give you  
6 input on what we'd like to see. But, you know, we  
7 understand that and hopefully -- we think we made these  
8 broad enough that it could cover a lot of different  
9 issues that'll meet, you know, the needs of the  
10 industry as well.

11           And the first one is just broadly called  
12 Emerging Issues. There's lots of emerging issues that  
13 come out in the construction industry trade, and we  
14 think that we could put a lot of things into the basket  
15 of emerging issues. We all know. We mentioned suicide  
16 and opioids; those are certainly emerging and current  
17 issues as well. But to OSHA, through the regulatory  
18 process, there's things you can do as an advisory  
19 committee to help us, and we're looking forward to  
20 getting your input on that.

21           So those are two potential issues within  
22 emerging issues that could be addressed, and there are



1 many others. I mentioned in my presentation about  
2 dual-rated equipment, or equipment that is rated under  
3 more than one consensus standard, and how they work.  
4 That is an emerging issue that within the Directorate  
5 of Construction is something we're concerned with,  
6 something we're paying note to.

7           The second -- the second work group that we  
8 think might be appropriate would -- is another broad  
9 one, which is training. We think that training overall  
10 can be at the root of all of the issues that we deal  
11 with in construction. Communication and training are  
12 absolutely important. It was mentioned during the OOC,  
13 Office of Communications, update about how we have  
14 improved our communication methods, and we're looking  
15 for more opportunities.

16           And so helping us help the industry in  
17 communication and training with your help would be --  
18 would be mightily appreciated. And I think those two  
19 work groups would be a good place to start, and then if  
20 we find as we move along that we can move towards other  
21 work groups, that might be -- that might be something  
22 we can explore in future meetings.

1           So I'm just putting out what the Directorate  
2 of Construction's thoughts were on this, just to keep  
3 it easy so that we would have representation from all  
4 assets here within the ACCSH.

5           MR. CANNON: And as Scott said, you know,  
6 those are just what are being currently put forward as  
7 recommendations. So at this time I'd like to open it  
8 up to the full committee for their thoughts and input  
9 on it.

10           Chris.

11           MS. CAIN: Chris Cain, Employee Rep. One  
12 question I have is your -- this major initiative you  
13 have underway in trenching, that is scheduled to wrap  
14 up at the end of this fiscal year, correct? So it's  
15 not something that will be an ongoing focus?

16           MR. KETCHAM: It may continue.

17           MS. CAIN: I was just wondering, looking back  
18 on the success of this committee in the early 2000s,  
19 there was a concerted effort on -- around trenching,  
20 and I think that the efforts of the committee and all  
21 the people in the organizations on the committee helped  
22 make an impact in the trenching fatalities at that

1 time. I don't know if it's as high of a number  
2 necessarily as would warrant a work group. It's more  
3 of a question in thinking if there's something like  
4 that that you would want ongoing kind of support and  
5 engagement from the industry through this committee  
6 that perhaps at least one work group should be able to  
7 accommodate something like trenching if it were to  
8 continue to be a priority.

9 MR. KETCHAM: You know, I'm just thinking  
10 about what you raise there. I do think that the  
11 training would lead an area that we could focus on  
12 trenching on, and under emerging issues, I mean, if you  
13 think about it, unfortunately, with excavations and  
14 other hazards, we get them to a point where we -- we're  
15 bringing them down and then we focus on something else  
16 for a little bit, and then all of a sudden we look back  
17 and it's coming back up again.

18 I would say those are reemerging common  
19 issues, but I think we can probably address issues like  
20 that probably through training, which I think would be  
21 most appropriate, and maybe in some areas they might be  
22 an emergent issue within that industry causing those

1 fatalities. That might be something that we can  
2 address under Emerging, if applicable.

3 MS. CAIN: Thanks.

4 MR. KETCHAM: You bet.

5 MR. CANNON: Palmer.

6 MR. HICKMAN: Thank you, Mr. Chairman. I'm  
7 not sure which of those two buckets this would go  
8 under, but Subpart K is based on the 1984 National  
9 Electrical Code, and I think that needs attention.  
10 That's more of a standards rating. So we -- the 1984 -  
11 - so we've had the '87, the '90, '93, '96, '99, '02,  
12 '05, '08, 2011, 2014, 2017, and this fall we'll be  
13 coming out with a 2020 NEC. So I think that's about 12  
14 additions behind I -- there might be standards older,  
15 but certainly Subpart S for general industry has been  
16 updated, but Subpart K I think has been -- it's become  
17 out of sync and some really important revisions were  
18 made to Subpart S for general industry, and I'd like us  
19 to somehow take a look at Subpart K.

20 MR. KETCHAM: Okay. Well noted.

21 MR. CANNON: Chuck.

22 MR. STRIBLING: Chuck Stribling, state

1 representative. And I think those two topics are spot  
2 on for, I mean, two suggestions for work groups. A  
3 thought pops in my head: instead of calling it Emerging  
4 Issues, maybe we also call it Emerging and Current  
5 Issues to address something like Mr. Hickman just  
6 suggested. And I can think of former Emerging Issues  
7 Work Group work that was done that's now a current  
8 issue, and the needle still needs to be moved forward.

9           So this would -- I guess my sentiment is it  
10 would limit -- it would not limit us if we titled it to  
11 being current as well.

12           And a question I had for counsel as we think  
13 about the work group process, and I know you explained  
14 it yesterday but I still just want to get a good  
15 understanding. Presuming we establish some work groups  
16 and we figure out, you know, who's going to lead the  
17 work groups and who's going to be on what group, et  
18 cetera, et cetera, can you explain to me again how the  
19 work group would work as far as having a conference  
20 call to work on a topic prior to meeting in a full --  
21 in a committee setting? Thank you.

22           MR. CANNON: Joey.

1           MR. GILLILAND:  Joey Gilliland, ACCSH counsel.  
2   In terms of the exact procedures, those would be things  
3   that the DFO, Scott, and the chair would sort of work  
4   out.  But it is possible to have them over a conference  
5   call before, so long as it's called by Scott and I  
6   believe Scott would be present.

7           But yeah, so the whole purpose of the working  
8   group is to make up recommendations to then present to  
9   this body, so in terms of the number of people and who  
10  sits and who serves on each working group, I believe  
11  the plan would be to keep each working group under the  
12  quorum so that it doesn't appear that, you know, that  
13  it's committee action, and then also to have each  
14  representation group on the committee.

15           Other than that, the choice would be up to the  
16  chair and to Scott.

17           MR. CANNON:  And with your statement there, we  
18  would then need to limit the number of participants  
19  from the committee on those calls so as to not reach a  
20  quorum?

21           MR. GILLILAND:  I think that's correct.  I  
22  think so.

1 MR. CANNON: All right. Palmer.

2 MR. HICKMAN: Mr. Chairman, real quick as a  
3 follow-up. Mr. Chairman, I appreciate you reminding me  
4 in a nice way that I didn't announce myself. Palmer  
5 Hickman, Employee Representative. And I was the one  
6 that brought up the Subpart K issue. So probably it is  
7 obvious why it's in the Focus Four. It continues to be  
8 a problem. The needle is kind of stuck on moving the  
9 needle on electrical, and I think it might help. And  
10 if, as our director said, that train -- it all starts  
11 with training.

12 I think it gives us a chance to go back into  
13 Subpart K, and I remind -- I was reminded during  
14 NIOSH's presentation of the FACE reports, the FACE  
15 reports really point this out and I think it's why NORA  
16 included electrical, is because when you look at the  
17 FACE reports, maybe people don't assume this but I --  
18 my experience is people assume it's the electricians  
19 that are getting electrocuted, and it's all trades, and  
20 you might -- I don't know what the exact statistics are  
21 but it's probably less than one in 10 are actually  
22 electricians. It's contact from a ladder, so it's a

1 painter, it's a roofer, it's people that are exposed to  
2 power lines at heights. It's not necessarily just  
3 electricians that Subpart K applies to, so this can  
4 help us refocus our training there. Thank you.

5 MR. KROCKA: Randall --

6 MR. CANNON: Ron. Oh, go ahead, Randy.

7 MR. KROCKA: Randy Krocka, I'm an Employee  
8 Representative. I just think, too, the two that you  
9 mentioned are spot on. I'm really interested in the  
10 suicide and opioid crisis, working on that, as well as  
11 the training. And that, as mentioned, covers a lot of  
12 different issues. So I would move to do those two.

13 MR. CANNON: Ron.

14 MR. SOKOL: Ron Sokol, public representative.  
15 I think that's a great idea, the emerging; you could  
16 put -- move things in and out, you know. And on the  
17 training, I want to make sure we don't pigeonhole  
18 ourselves, but really it needs to focus in on really  
19 education, training and outreach. And so we don't --  
20 so we don't lose the education part of it where we  
21 continue to train and train, and why do we have to  
22 continue to train? The guy doesn't get it. But



1 really, how are we going to educate, and then how are  
2 we going to train effectively, and then what outreach  
3 do we have, and that includes our communication plan  
4 and everything else.

5           So to Chris's point about the trenching, you  
6 know, we could -- we could link ourselves to different  
7 MEPS that OSHA is doing. You know, the problem with  
8 the current system that I see, Scott, is that, you  
9 know, you think it's under control, all of a sudden a  
10 bunch of people die, and then it comes back up -- we've  
11 got to put more focus and okay, we beat it back down,  
12 and then it can turn.

13           So the question is how do we really in the  
14 emerging issues begin to start using those leading  
15 indicators that are telling us there's a problem on the  
16 horizon? And so, you know, I think that these two  
17 would cover a wide range of what our mission is: to  
18 protect the American construction worker. Thank you.

19           MR. KETCHAM: You bet.

20           MR. CANNON: Wes.

21           MR. WHEELER: Wes Wheeler, employer rep. I'd  
22 also like to comment as well on the presentation by

1 Scott, where he did mention the electrical safety as  
2 being looked at, and it really was electrical safety  
3 for the non-electrician. Because it really is about  
4 teaching the other trades and the public what are some  
5 of the safety issues that they need to be aware of and  
6 avoid.

7           Moving forward with the work groups that we  
8 were talking about, Emerging Technologies, one of my  
9 recommendations -- because it was actually demonstrated  
10 up here on the screen today and it relates to the law  
11 of robotics -- that we're seeing more and more robots  
12 in the construction industry, and with that being an  
13 issue if Control of Hazardous Energy is going to be  
14 looking at that from a robotics standpoint in a  
15 facility and we have these robots that are going to be  
16 out there in the construction sites doing 3D printing  
17 or however they're going to be doing it, that's one of  
18 the things that I think probably would fall into that  
19 emerging technologies and should be an issue we as a  
20 construction group should look at. Thank you.

21           MR. CANNON: All right, anyone else that has  
22 not spoken up yet have anything to say?

1           MR. KETCHAM: I'll bring one additional thing.  
2 Scott Ketcham, DFO. It might be worth looking to see  
3 what other advisory groups do also. I know from the  
4 past, I've worked on the Maritime Advisory Committee,  
5 and they create work products that are, you know,  
6 helpful to the industry.

7           That may be something on the education side  
8 that we can consider or work up. I would leave that up  
9 to you, but I would say there's other advisory  
10 committees that do create products that are helpful to  
11 their particular industries and would allow some input  
12 from all sectors of the industry to put that  
13 information forth. It might be something to consider.

14          MR. CANNON: It sounds like everyone is in  
15 agreement with the -- I mean, a little massaging of the  
16 titles of them, but I think the focus of the groups  
17 everybody agrees with. And I'm going to ask Joey, do  
18 we need to enter a motion to accept those as work  
19 groups?

20          MR. GILLILAND: This is Joey Gilliland, ACCSH  
21 counsel. I don't believe it requires a motion. I  
22 believe it's at the discretion of Scott and the chair,

1 but maybe Scott or Eric or Damon know what the  
2 committee has done in the past.

3 MR. KETCHAM: Yeah.

4 MR. GILLILAND: You want to do a motion?  
5 Okay.

6 MR. CANNON: All right, Damon is going to get  
7 us up to speed.

8 MR. BONNEAU: So what has happened in the past  
9 is that the committee has made a recommendation to  
10 OSHA.

11 MR. GILLILAND: Damon, introduce yourself.

12 MR. BONNEAU: Damon Bonneau, I'm with the  
13 Office of Construction Services, OSHA. Thank you.  
14 What the committee has done in the past is had a  
15 discussion and recommended to OSHA that OSHA considers  
16 -- agrees with or consider these four work groups for  
17 the committee, and it comes to us and then OSHA makes  
18 the decision. So that way it's on the record, shows  
19 that a discussion has taken place, everybody is in  
20 agreement and supports it, and it goes forward like  
21 that.

22 MR. CANNON: Okay. So we need a motion.

1 Well, I guess first is we agree on what we'd like them  
2 to be called. I know, you know, Ron mentioned training  
3 and outreach and education, training and educational  
4 outreach. Chuck expanded on the emerging issues to say  
5 emerging and current issues. So --

6 MS. DEPRATER: (Off mic.)

7 MR. CANNON: On this particular part? No. So  
8 if we're okay with it, training and educational  
9 outreach? Or --

10 MR. SOKOL: I'll make the motion that ACCSH  
11 recommends two work groups, first one being Emerging  
12 and Current Issues, and we have the latitude to decide  
13 what they are; and then the second work group would be  
14 Education, Training and Outreach.

15 MOTION

16 MR. CANNON: All right. Do you second?

17 MS. DEPRATER: I'll second. Cindy DePrater,  
18 Employer Representative. I'll second.

19 MR. CANNON: Any further discussion on the  
20 motion? All right. All in favor?

21 (Chorus of ayes.)

22 MR. CANNON: Opposed?

1 (No response.)

2 MR. CANNON: Abstain?

3 (No response.)

4 MR. CANNON: The motion carries unanimously.

5 ACCSH WORKGROUP DISCUSSION

6 MR. CANNON: And so I guess that next is  
7 trying to divvy up the group. As Joey mentioned, you  
8 know, we want to avoid having a quorum, which we  
9 learned yesterday was a simple majority. So, you know,  
10 I'm going to remove myself from being an active  
11 participant in any one workgroup so that means we split  
12 it down the middle, seven/seven. I don't know any, you  
13 know, way -- everybody seems to be interested in both  
14 sides, so it's going to be hard to kind of split it up.  
15 Yeah. And Charles calls to flip a coin, so I guess --

16 (Laughter.)

17 MR. STRIBLING: Chris and I already decided on  
18 it.

19 (Laughter.)

20 MR. CANNON: All right, so I guess a show of  
21 hands. Who would be interested in getting involved in  
22 the Outreach, Education and Training? Six. We need

1 one more.

2 MR. KETCHAM: We need one more.

3 (Laughter.)

4 MR. STRIBLING: We need a balance.

5 MR. CANNON: All right.

6 MR. KETCHAM: This is Scott Ketcham. Wait one  
7 moment, gentlemen.

8 MR. BONNEAU: Damon Bonneau from the Office of  
9 Construction Services again. One of the key things  
10 that Joey highlighted yesterday is we have to make sure  
11 -- so when it comes to the employer and the employee  
12 categories, of course, you know, one is going to have  
13 three, you know, on each one, you know, because you  
14 can't have --

15 MR. CANNON: All employees and --

16 MR. BONNEAU: -- two and a half. Yeah, so you  
17 can't do it like that. So what has been done in the  
18 past is the Chair, and, you know, has kind of like  
19 divvied up the assignments to the committees, and if  
20 everybody was in concert with that then it kind of like  
21 went like that. And that is what has happened in the  
22 past.

1           MR. CANNON: All right, so now we got to  
2 assign. So we got to split Ron and Chris up, so --

3           MR. SOKOL: Him and I talked about it so he'll  
4 do Emerging and Current Issues and I'll do the  
5 Education, Training and Outreach.

6           MR. CANNON: So you're -- Ron, the training?

7           MR. SOKOL: Yes.

8           MR. CANNON: And Chris. All right, Mark, you  
9 were --

10          MS. CAIN: This is a little difficult. This  
11 is Chris Cain. If we're talking opioids, I think I  
12 need to be in the conversation. I don't know if I  
13 could share information with the work group without  
14 actually being a participant in the meeting if -- I  
15 don't -- just as purview as the Chair of the NABTU  
16 Opioid Task Force, we've got a lot of thinking and a  
17 lot of process that we've put into this and the  
18 approach, and it has been really well-agreed to amongst  
19 the building trace (phonetic) and several of our  
20 employers.

21          MR. CANNON: So you want Emerging?

22          MR. KETCHAM: Are you saying -- this is Scott



1 Ketcham -- are you saying potentially that could be a  
2 conflict of interest?

3 MS. CAIN: No, what I am saying is that I  
4 think the -- if opioids is discussed in that meeting, I  
5 would want to be part of that discussion to share the  
6 information and where the building trace (phonetic) is  
7 going on this, which is available and accessible to all  
8 of the construction industry, the tools, the programs  
9 and the training program we're developing and  
10 everything else. So but I don't necessarily need to be  
11 a member of that workgroup is what I am saying. I just  
12 would want to be able to share with the workgroup.

13 MR. GILLILAND: I don't see any legal problem  
14 with it. You could even sort of present to the  
15 workgroup.

16 MS. CAIN: Great. So that's, I guess, the  
17 question I was asking. So you can put me on training  
18 as long as I can come talk at a meeting or two of the  
19 other.

20 MR. SIZEMORE: Greg Sizemore, Employee Rep.  
21 I'll go where the Chair wants me to go, but much like  
22 Chris said, if construction suicide is going to be

1 spoke about in Emerging Issues, I would like to be able  
2 to contribute in the capacity she described earlier if  
3 it's acceptable, Joseph, to say yes. We are doing a  
4 lot of work behind the scenes much in that space like  
5 you guys are doing on the opioids, and I think we would  
6 remiss not to tap into that potential.

7 MR. GILLILAND: I think Damon may want to  
8 correct me.

9 MR. BONNEAU: Yes. So one of the things that  
10 happened in the past that drove us to this, we would  
11 have stacked work group meetings, one right behind the  
12 other, and we always had folks assigned to that  
13 workgroup, okay? But the fact that they were all in  
14 the room at the same time, and that's where we got to  
15 where we had to, like, break it up so we don't have  
16 eight, nine, ten ACCSH members in the same room talking  
17 about the same topic.

18 Like we highlighted on yesterday, Damon Bonn,  
19 Office of Construction Services, like we highlighted on  
20 yesterday, the workgroup is the workgroup; but the  
21 workgroup does research, have discussions and things  
22 like that. But the workgroup reports to ACCSH, so

1 there's an opportunity for ACCSH members who were not  
2 present in the workgroup to engage in that discussion,  
3 present their views and bring it online.

4           So there's not that a workgroup could go out  
5 and come back and make a recommendation to OSHA,  
6 because that can't happen. The recommendation is  
7 ACCSH, and then ACCSH has a robust discussion, and then  
8 the decision is made through one of these committee  
9 meetings on the path forward. So everybody gets a bite  
10 at the apple whether you're at the workgroup meeting or  
11 you're at a committee meeting. So that's -- and Joey,  
12 you can help us out that guidance, but that's the  
13 guidance that we have gotten.

14           MR. KETCHAM: Scott Ketcham, DFO. It sounds  
15 like that's a past practice that we followed -- a  
16 policy that we followed, and I don't find fault with  
17 it.

18           MR. BONNEAU: Also -- Damon Bonneau again,  
19 Office of Construction Services -- one of the things  
20 that Eric pointed out to me is that what could happen,  
21 Mr. Chair, if you decide, you don't really have to nail  
22 this thing down today. You could do it and you could

1 have the members submit to you where they would like to  
2 line up. You could see how it stacks, and then you can  
3 make adjustments accordingly. And then at the next  
4 ACCSH meeting you can make that announcement and then  
5 we could go forward.

6 MR. CANNON: How about we do that?

7 MS. CAIN: Chris Cain, Employee Rep. I don't  
8 know if that is the right approach, and the only reason  
9 I say that is because there's an interest, at least in  
10 a couple of the ACCSH members that I've talked to to  
11 actually meet prior to the next ACCSH meeting.

12 MR. CANNON: Okay. Well, I'm going to  
13 continue to write (inaudible).

14 MR. KAMPERT: Eric Kampert, Office of  
15 Construction Services. What I was saying trying to  
16 pass to Damon is, up to you, Chair and DFO, but you  
17 could assign those as a potential option as you can  
18 assign those. In the interim, we will work the DFO.  
19 Those can be announced. You can still hold workgroup  
20 meetings, and then at the next ACCSH, in the past we've  
21 had workgroup meetings prior to the full committee so  
22 you can do some interim meetings if you would like,

1 which we would help you set up and participate, and do  
2 the workgroup meetings prior to the main ACCSH meeting  
3 and then get together. That's an option as well if  
4 there is a desire to kind of get started, so to speak.  
5 Or we could announce it at the next ACCSH. That's  
6 where you guys decide. The option is up to you. We  
7 are willing to do either way.

8 MR. COMBS: Fravel Combs, Employer  
9 Representative. I just wanted to say that I've had  
10 experience in both of these, particularly in the  
11 Emerging and Current Issues that dual rate (phonetic)  
12 equipment, and then also in the education and training  
13 side, so I am open to wherever you need, whichever  
14 position you need filled from the Employer  
15 Representative side.

16 MR. KETCHAM: Thank you.

17 MR. CANNON: Okay, yes.

18 MR. KAMPERT: Eric Kampert, Office of  
19 Construction Services again. Getting back to what  
20 Chris was saying, we do need to stay at a "pocket jail"  
21 by not having everyone together, but the research of  
22 the committee could take stuff from expertise that

1 maybe Fravel has or Chris has, get that information  
2 just, you know, not to be present. And that could be  
3 discussed and then it's, again, to the whole committee,  
4 everyone has a chance to chime in.

5 MR. SIZEMORE: Greg Sizemore, Employer  
6 Representative. Much like Fravel, I will serve at the  
7 leisure and pleasure of the Chair, as long as I can  
8 contribute in some meaningful way.

9 MR. CANNON: For the sake of time here, I will  
10 go through the list, work with Scott, and then we will  
11 communicate with the committee by way of email, you  
12 know, informing you as to how we've kind of divvied it  
13 up, and I'll take note of, you know, those who have  
14 expressed a strong interest in one group or the other.  
15 So that shouldn't take us very long to take care of  
16 that, I'd say within a week.

17 MR. KETCHAM: Has everyone expressed their  
18 interests?

19 MR. CANNON: Yes, well, just by way of hand  
20 when I raised in on the training education, you know,  
21 it was -- yeah, so. Does that sound fair to the group?  
22 Palmer?

1           MR. HICKMAN: Mr. Chairman, I was asked to  
2 raise my hand for the training and education. I'm  
3 happy to serve there if that's where it works out best,  
4 but I would prefer wherever Subpart K ends up and it  
5 sounds like that's current issues.

6           MR. KETCHAM: Current, pun intended.

7           (Laughter.)

8           MR. KETCHAM: You got to have fun with it.

9           MR. CANNON: All right. Any more discussion  
10 on the workgroups? Chris?

11          MS. CAIN: Chris Cain, Employee Rep. Is there  
12 an opportunity for people who are in the audience to  
13 sign up if they have interest in any of our groups?

14          MR. CANNON: They've kind of been just open,  
15 you know, they're kind of flow to where they find of  
16 fit, and that's -- and they typically maintain or stay  
17 in that group, so I don't know if we've formally signed  
18 any up from the public for the groups but Damon can  
19 help you with that.

20          MR. BONNEAU: Damon Bonneau, Office of  
21 Construction Services. So since this being our first  
22 meeting and I would -- I'd like to recommend to the

1 Chair and the DFO is that everyone that signed up for  
2 the ACCSH meeting who has provided us their email  
3 addresses, that once you decide what the workgroups are  
4 going to look like, if the workgroup decides that they  
5 want to meet, have a telephone meeting, prior to, and  
6 we're helping you to set it up, we can shoot an email  
7 out to everyone in the public who signed up for this  
8 meeting to let them know that the workgroup is meeting,  
9 and so if they wanted to respond and let us know that  
10 they want to be a part of it, then we can open it up  
11 like that.

12 MR. CANNON: I like that. It sounds like --

13 MR. KETCHAM: Scott Ketcham; I'm good with it.

14 MR. CANNON: Any more discussion on the  
15 workgroup discussion? All right, well, I think we got  
16 a plan to identify the participants and, I guess,  
17 leadership of each of those groups, so Scott and I will  
18 be communicating with you all to let you know where  
19 you've been assigned. And, again, we've made note of  
20 those who've expressed an interest one way or the  
21 other. Our next agenda item is public comment.

22 MR. BONNEAU: Damon Bonneau, Office of



1 Construction Services. We have Ms. Carolyn McKay --  
2 I'm sorry -- would like to address the committee,  
3 safety, public health and workforce management, issues  
4 affecting labor force OSHA reform.

5 MS. GUGLIELMO: Thank you, Mr. Chairman, and  
6 my name is Carolyn McKay Guglielmo. I am a safety  
7 public health and workforce management advocate,  
8 analyst and incident investigator. I've held several  
9 leadership positions in safety with the National  
10 Association of Home Builders, the National Asphalt  
11 Pavement Association, and the Associated General  
12 Contractors. I've worked on F.A.C.E on the firefighter  
13 prevention team, and the state of West Virginia's  
14 workers' comp program.

15 Thank you for letting me address the committee.  
16 Congratulations to the new members on the committee,  
17 and glad to see older faces -- not old -- back. And I  
18 want to congratulate you because as you know, workplace  
19 safety and health, especially in construction, is a  
20 thankless job. It is a tough job. We have to  
21 intercede with all kinds of people, agencies, labor  
22 issues, safety issues, and the times.

1           So I know everybody here is a very hard worker  
2 trying to prevent injuries and illnesses in this  
3 country. And it's not something that the mainstream  
4 media covers or people of the press, and I've been  
5 participating with this committee on and off since  
6 1996, and a lot of great work comes out of this  
7 committee. And this is the cream of the crop, the  
8 people who also attend this meeting, cream of the crop;  
9 your labor organizations, trade associations, academia,  
10 putting a lot of information out there to the public,  
11 to employers, to people in labor unions, merit shop,  
12 and as well as labor organizations.

13           So I just wanted to congratulate you and give you  
14 a big pat on the back because a lot of people don't.  
15 And we've never -- I started attending these meetings  
16 in 1996 during the Clinton Administration right after  
17 the directorate of construction had been formed, which  
18 was a reinvention of government under the Clinton  
19 Administration. And the building and construction  
20 trade union and NAHB and AGC and ABC were big  
21 supporters of a nonstop -- one-stop shop here at OSHA  
22 to work on educational issues, engineering issues and

1 regulatory efforts.

2           What really, and I'm sure this will probably  
3 resonate with you all, it takes OSHA a very long time  
4 to bring a proposed rule to a final standard. It takes  
5 eight years, fifteen years. We've had some really  
6 great efforts during the reinvention of OSHA back  
7 during Clinton, and Bush carried these efforts on on  
8 negotiated rulemaking, on steel erection and cranes.  
9 It is nice to see now that the last couple of years  
10 that OSHA is finishing this work that has occurred  
11 through three different administrations.

12           And that's not acceptable to not only  
13 employers, but that's acceptable to the American  
14 worker. We need to figure out a better system for  
15 proposing standards, and we have lots of emerging and  
16 current issues, a lot that has to do with our culture  
17 in this nation with addiction and suicide. We have,  
18 you know, it's bad enough that we have health hazards  
19 and trauma related hazards, but now with the state of  
20 the internet, 24/7 T.V., we have entertainment industry  
21 that glorifies drugs, glorifies violence, which has  
22 obviously has come into the workplace. And everybody

1 around this table, employers now have to take the brunt  
2 of it and figure out what to do.

3           And I live part-time in Chicagoland; two  
4 Friday's ago a 30-year old laborer overdosed on heroin.  
5 They tried to revive him three times with Narcan and he  
6 died. There were 10 other incidents in that area. And  
7 that's happening all over. So we need really to think  
8 about what is happening, what are the psychosocial  
9 issues that are happening in our culture that's hurting  
10 workers. You know, we're having shootings in the  
11 workplace, we're having guys beat up each other.

12           We really need to think about, because it's  
13 always going to come back down to this committee, it's  
14 going to come back to SMACNA. It's going to come back  
15 to IBEW. How are you guys going to help your members?  
16 And this is only going to get worse. This isn't going  
17 to get any better. We can throw lots of money at  
18 addiction programs, at suicide prevention, but people,  
19 the way that our psychosocial culture now is set up,  
20 we're going to continue to have these issues.

21           So I wanted to address you today to really  
22 think about how we're going to handle it. And recovery

1 from addiction or alcoholism or anything traumatic, it  
2 takes time. It's not a 30-day program. It's not 90-  
3 days. It takes the person to really commit to  
4 recovery, and that's not a year-long thing, that's not  
5 a two-years, it's a lifelong process. And everybody at  
6 this table in some way is going to have to touch that  
7 within their organizations.

8           So, you know, I just wanted to discuss that a  
9 little bit. The other thing is it's my understanding  
10 that OSHA fines have gone up 27 percent. And that  
11 money never goes back into the OSHA budget. It doesn't  
12 go into the Susan Harwood grants. Every administration  
13 there's always a lot of discussion whether we're going  
14 to have enough money for enforcement, if we're going to  
15 have enough money for outreach and training, developing  
16 new programs.

17           So I would hope that this committee could also  
18 think about, well, wouldn't it be nice to codify that  
19 some of those fines go back into training and education  
20 for labor and employers as well as capacity-building  
21 grants. Because that money goes back into the big  
22 treasury and I would think if a company has violated

1 some OSHA standards and have big fines, that that money  
2 should be spent back into not only the company, but the  
3 employees on safe work practices and acts.

4           And then lastly I just want to talk a little  
5 bit about we have a multigenerational workforce. We  
6 also, with that, we have a lot of new OSHA compliance  
7 officers around the country. The OSHA training  
8 institute had mass retirements of institutional  
9 knowledge with 30, 40 years' experience. Same here at  
10 national OSHA.

11           And something that perhaps you all can also  
12 think about or recommend down the road is it's great to  
13 have compliance officers trained in a webinar, but as  
14 you know, construction is a very different animal than  
15 manufacturing. You have a lot of different  
16 contractors, you're working in unpredictable weather,  
17 unpredictable conditions, and a lot of times, and I  
18 think Chris you mentioned something to me earlier about  
19 the fact we do have a lot of inexperienced compliance  
20 officers just coming out of school, and personally I  
21 learned on the job, I went to school, got a 10-hour,  
22 but I really didn't understand construction until I was

1 out there walking jobs, all kinds of jobs, to  
2 understand imminent danger.

3 So anyways, thank you very much for allowing  
4 me to speak today, and everybody stay cool.

5 MR. BONNEAU: Mr. Chair, we have one last  
6 person signed up. Travis Parsons from the Labor's  
7 Health and Safety Fund.

8 MR. PARSONS: Thank you. I'll be short  
9 hopefully. So good afternoon and good work today and  
10 yesterday. It's good to see the group meeting  
11 together. I know a lot of you around the table; I just  
12 met a couple of you, but keep up the good work. I wish  
13 it wasn't at the end; I kind of wish I could have  
14 chimed in earlier, but I know that's how the rules are.

15 With the workgroups, and maybe one of these  
16 could fit in to Emerging Issues or something you can  
17 fit it in, but there's two topics I think that are  
18 majorly being missed, or have been done in the past,  
19 that we need to keep the momentum going. In my opinion  
20 and our opinion, the Silica Rule was very successful  
21 and I commend OSHA for all their effort on that. We're  
22 seeing changes on our jobs; we're seeing less dust;

1 we're seeing less people getting sick. In that same  
2 vein, we know that noise is a huge problem. We know  
3 that heat illness is probably the biggest problem we  
4 face right now in the emerging issues maybe, heat  
5 illness, and everybody knows all about that, I don't  
6 got to talk about that.

7           Health hazards is what I'm alluding to. I  
8 don't think we've talked in the last day and a half  
9 about health hazards enough. And the last time ACCSH  
10 was meeting a lot of the momentum for the Silica Rule,  
11 and AIJ just came out with a paper on health hazards,  
12 was created in these working groups, and there was a  
13 health hazards working group. So I would suggest to  
14 the group to consider health hazards either as another  
15 working group or try to fit in one of your two. I  
16 don't want to disrupt all that nice, neat arrangement  
17 you just got done, so that's why I wish I could have  
18 spoken earlier.

19           And then the other thing that maybe could  
20 definitely be an emerging issue is worker fatigue. And  
21 when I talk about worker fatigue I'm talking also a  
22 little bit about fleet safety driving to and from work.



1 I know you get into work later Ms. Barron (phonetic),  
2 and maybe it's not in your jurisdiction. But at the  
3 end of the day workers are working in construction 12  
4 hours, 15 hours, 16 hours, driving to and from work,  
5 driving for work. More people die because of  
6 transportation related issues than falls. I mean we're  
7 not touching the to and from work; we're not touching  
8 fleet safety.

9           So I don't know if those both topics fit into  
10 your two groups, large groups, I shouldn't say little,  
11 but just consider worker fatigue and transportation  
12 related issues for the construction industry,  
13 especially with the expansion of oil and gas out in  
14 rural America. These workers are tired. And when  
15 they're tired, they get hurt. And we have an aging  
16 workforce and it's even harder for the aging workforce.

17           So that's all I wanted to raise to the  
18 committee. Keep up the great work and please consider  
19 those topics as you move forward. Thank you.

20           MR. CANNON: Thank you Travis.

21           MR. PARSON: Travis Parsons with Laborers'  
22 Health & Safety Fund of North America.

1           MR. CANNON: All right, you know, just to  
2 respond to both of them I think, you know, what Carolyn  
3 raised and a lot of what you raised I think we can find  
4 a place to address them within the workgroups but I  
5 think that's also highlights, you know, that's an  
6 opportunity for, you know, the public to participate in  
7 the workgroups to provide their voice as to what the  
8 workgroups could or should focus on, so just keep that  
9 in mind, you know, whenever the meeting is scheduled  
10 just to get involved and participate. So I guess we're  
11 at the point for wrap-up and adjournment, but before I  
12 do, Joey has exhibits to enter into the record.

13           MR. GILLILAND: Joey Gilliland, ACCSH counsel.  
14 I'm going to continue from the exhibit list from  
15 yesterday. Today I want to designate the directorate  
16 of corroborative and state programs update PowerPoint  
17 as Exhibit 4. OSHA DSG update PowerPoint Exhibit 5.  
18 Welding and Confined Spaces PowerPoint will be Exhibit  
19 6. Directorate of Training and Education DTE Update  
20 PowerPoint will be Exhibit 7. The NIOSH Update  
21 Construction PowerPoint will be Exhibit 8. And the  
22 OSHA Communications PowerPoint will be Exhibit 9. And

1 I'll move those into the record.

2 MR. CANNON: Thank you, Joey. First, I want  
3 to thank Scott, Damon, Veneta, and all the rest of the  
4 OSHA folks who help us with the meeting yesterday and  
5 today. I think everything went well that was within  
6 their control and, you know, so everybody should just  
7 thank them when you get a chance.

8 Second, I want to echo what Travis said. I  
9 think we've had, you know, a day and a half of really  
10 good meetings, discussions, updates from the various  
11 directorates, and now that we have the workgroups, you  
12 know, the fun begins, the work begins and we can start  
13 getting together and, as Scott said, potentially create  
14 new products or resources to help the employers and  
15 workers comply and stay safe on the job site.

16 So I'm going to look forward to continuing to  
17 work with everybody here and, again, I think we had a  
18 great meeting. Scott?

19 MR. KETCHAM: On behalf of the Occupational  
20 Safety and Health Administration this has been a great  
21 one, I commend you, this has been a great meeting; a  
22 good place to start. I'm really excited about the

1 future of this ACCSH and what we're going to do. Our  
2 goal is protect American workers, to protect all  
3 workers in the construction industry. We're looking  
4 forward to it. So, again, we look forward to the good  
5 work ahead of this committee and participating and  
6 making this a very fruitful event.

7 MR. CANNON: With that, the meeting is  
8 adjourned.

9 (Whereupon, at 3:35 p.m., the meeting was  
10 adjourned.)

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