

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

ADVISORY COMMITTEE ON CONSTRUCTION  
SAFETY AND HEALTH

U.S. Department of Labor  
Room N-3437 A/B/C, Frances Perkins Building  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Friday, December 16, 2011

8:05 a.m.

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PARTICIPANTS:

COMMITTEE MEMBERS:

Pete Stafford, Chairman

Chuck Stribling, State Representative, Kentucky Labor  
Cabinet

Mike Thibodeaux, National Association of Homebuilders

Letitia Davis, Massachusetts Department of Public  
Health

Dan Zarletti, Road Safe Traffic

Gerry Ryan, Plasterers & Cement Masons International  
Association

Gary Batykefer, Sheet Metalworkers International  
Association

Steven Hawkins, State Safety Program Representative  
with Tennessee OSHA

Matt Gillen, NIOSH Representative

Walter Jones, Laborers Health & Safety Fund

Kevin Cannon, The Associated General Contractors of  
America

Laurie Shadrock, United Association of Plumbers &  
Pipefitters

Liz Arioto, Elizabeth Arioto Safety & Health Consulting  
Services

Tom Marrero, Zenith Systems, National Electrical  
Contractors Association

William Hering, SM Electric Matrix and the Association  
of Union Constructors

PARTICIPANTS (Continued):

Ben Bare, DFO, Deputy, Directorate of Construction,  
OSHA

Sarah Shortall, ACCSH Counsel

Jim Beatty, Technical Director with Concrete  
Foundations Association

Chris Coal, Inside OSHA

Charlie Byrd, Belford Bay Construction

Megan Smith, Directorate of Construction

Dean McKenzie, Directorate of Construction

Michelle Mihelic, American Wind Energy Association

Jim Boone, Directorate of Construction

Jim Maddux, Directorate of Construction

Damon Bonneau, Directorate of Construction

Michael Payne, Directorate of Construction

Gerry Houvener, Directorate of Construction

Fran Dougherty, Directorate of Construction

Paul Bolon, Directorate of Construction

Craig Palmer, Directorate of Construction

Vernon Preston, Directorate of Construction

PARTICIPANTS (Continued):

Phil Newman, Balfor Beatty Corporation

John Kurtz, International Staple, Nail & Tool  
Association

George Kennedy, NUCA

Rich Waltson, Occupational Safety & Health Reporter,  
BNA

Wayne Creasap, The Association of Union Constructors

PRESENTERS:

MaryAnn Garrahan

Minda Nieblas

Paul Bolon

Dayton Eckerson

Jim Maddux

C O N T E N T S

FULL COMMITTEE AGENDA, DECEMBER 16

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

2 CHAIRMAN STAFFORD: If we could bring the  
3 meeting to order, please? Good morning. I believe we  
4 have a quorum, so we'll go ahead and bring the meeting  
5 to order.

6 Welcome. Nice to see everyone this morning.

7 If you look at the agenda for this morning,  
8 what we have first up is to do the two work group  
9 reports. We're going have the Reinforced Concrete Work  
10 Group Report first thing, I think, this morning.

11 And we're going to try to rearrange the  
12 schedule a bit to move the Backing Operations Work  
13 Group Report back up, in the hopes that can have the  
14 Virginia Department of Transportation Presentation  
15 before that work group report.

16 Before we get started on that, however, I'd  
17 like to pass around two handouts real quickly. And  
18 this is a follow-up to our discussion yesterday about  
19 our National Construction Fatality Campaign.

20 You know, it's funny, about a year or go so,  
21 in the Saturday edition of the Washington Post, there  
22 was a front-page article about law enforcement.

1           And in that article, there was a map of that  
2           United States depicting all the law enforcement  
3           fatalities for that year. And I had looked at the  
4           article and thought, "Well, that would be a cool thing  
5           maybe for us to do for the construction industry, if we  
6           could do it."

7           And then I obviously got back to work on  
8           Monday and forgot about it.

9           But sure enough, Scott Schneider with Labor's  
10          Health & Safety Fund saw the same article and raised  
11          this with me. So we started talking about it, and took  
12          a crack at trying to develop a real-time map, where we  
13          can actually pin-map construction fatalities throughout  
14          the United States, and not wait for the two-year lag  
15          time before we see the BLS data.

16          So what you're looking at is actually 2011  
17          fatalities in the United States.

18          And what we've done is really we're getting  
19          direct fatality data from OSHA. I've hired an intern  
20          at CPWR to actually spend time doing Google searches  
21          every day and to try to load the map.

22          And we also have contacts with the industries.

1 For example, the Iron Workers Union has their local  
2 union report their membership fatalities to the  
3 International, so they provide us those fatalities  
4 directly.

5 So at any rate, I thought that you might be  
6 interested in taking a look at this map and what we're  
7 trying to do, in an attempt to take a look at  
8 fatalities in order to target and launch our campaign.

9 The second handout is a handout that kind of  
10 breaks out those fatalities in terms of, you know, what  
11 are causing them: Falls, slips, trips, contacts with  
12 objects, electrocutions, et cetera.

13 So there's a lot of ways that we can look at,  
14 based on what we already know about 2011 fatalities.

15 I think we're up to about 540 fatalities now.  
16 You know, typically in the industry, you know, you'd  
17 see fatalities in construction anywhere between 800 to  
18 1,000 fatalities a year. That's about three  
19 construction workers every day in this country are  
20 getting killed on construction job sites.

21 So I just thought you might be interested, and  
22 maybe this set up the discussion later, when we -- yes,



1 please, go ahead, Dan.

2 MR. ZARLETTI: Mr. Chairman, is it okay for us  
3 to share this information?

4 CHAIRMAN STAFFORD: Sure, this will be, since  
5 it's passed out, you can certainly share it, and it  
6 will be --

7 MR. ZARLETTI: And is it available  
8 electronically?

9 CHAIRMAN STAFFORD: Yes, it's going to be  
10 available electronically. And we've actually set up a  
11 fatality map website at CPWR.

12 So when this is launched, it will be you can  
13 access it, and we're asking for people to submit  
14 information, so that we can continue to try to do this  
15 real-time tracking of fatalities.

16 So I'm hopeful that this might also lead to  
17 our discussion, when we talk about the reorganization  
18 of our work groups later, that maybe one of the things  
19 that we need to consider is a surveillance work group.

20 I know this is something that Tish and I have  
21 talked about, and I know that's near and dear to her  
22 heart.

1           But as we've gone through our work group  
2 meetings, we all understand that, you know, what you  
3 get out is what you put in it, and there's lots of  
4 limitations that we have in construction, and the data  
5 that's available to us.

6           So I think it's important area for both in  
7 terms of evaluation of our interventions and what we're  
8 doing, and also to, you know, to essentially just track  
9 and characterize what's going on in the industry. So  
10 we'll have that discussion later.

11           So if there are any questions or comments  
12 about that. I will send everyone in the room that's  
13 interested the link to the website, where this will be.  
14 So that you can actually download it and get at it  
15 directly.

16           So any questions? Yes?

17           MS. DAVIS:           And if you click on these docs, is  
18 it interactive, so that there's more information --

19           CHAIRMAN STAFFORD:           If you click on these  
20 docs, to the extent that we have, the best information  
21 that we know on what happened at that particular  
22 fatality.

1           Right?           So yeah, so it's a report behind it,  
2           yes. So I hope it's going to be very useful for us as  
3           we proceed, particularly in the fatality campaign.

4           MS. SHORTALL:           Mr. Chair?

5           CHAIRMAN STAFFORD:           Mm-hmm?

6           MS. SHORTALL:           At this point, I'd like to  
7           enter into the record, as Exhibit No. 16, the CPWR  
8           Construction Fatalities Map for January through  
9           November 2011; and as Exhibit No. 17, the CPWR  
10          Construction Fatalities by Exposure Event, January  
11          through November 2011.

12          CHAIRMAN STAFFORD:           I didn't make handouts;  
13          but, as you know, if you heard yesterday, that the  
14          target of the fatality campaign is starting with falls,  
15          and reasonably so.

16          It accounts for about a third of all  
17          fatalities in the industry.

18          So this is a map that just basically does the  
19          same thing. But instead of all fatalities, it just  
20          pins those fatalities that are fall-related fatalities.

21          So again, there are different ways that we can  
22          cover it. And I'll be glad to share that with anyone

1 that's interested.

2 Okay. With that, then I think the first order  
3 of business this morning is to hear from the Reinforced  
4 Concrete Work Group. Our Co-Chairs are Dan Zarletti  
5 and Gerry Ryan.

6 So Dan and Gerry, please.

7 MR. RYAN: Thank you, Mr. Chairman. Good  
8 morning.

9 Our meeting was opened by co-chairs, with  
10 self-introductions, all ACCSH members. and work group  
11 guests. Co-chair Zarletti read off the minutes of this  
12 work group's inaugural meeting held on July 28, 2011.

13 Scheduled guest speakers were not able to  
14 present, so on forum, discussion was continued. The  
15 purpose of this discussion was to address OSHA's  
16 language on reinforced concrete and post tensioning,  
17 and brings together things learned from the steel  
18 erection and crane standards, and how I will improve  
19 overall safety, beginning with design contractors, and  
20 general contractors.

21 Steve Rank, the Executive Director of Safety &  
22 Health International Association of Bridge Structure &

1 Ornamental Reinforcing Ironworkers, addressed the group  
2 with some concerns and comparisons to the current  
3 standard, in order to provide a more clear  
4 understanding between the general contractor,  
5 sub-contractor, and various other trades.

6 Mr. Rank addressed the new standard and  
7 addressed site conditions and access for all trades.  
8 Charlie Byrd of Belford Bay Construction also provided  
9 comments and expertise from the perspective of his  
10 employer and general contractor.

11 ACCSH members, Pete Stafford, Steve Hawkins,  
12 Charlie Stribling, and Kevin Cannon also contributed to  
13 the intensity of these discussions.

14 Blake Skogland and Dean McKenzie offered their  
15 expertise, and spoke on behalf of the Directorate of  
16 Construction.

17 A web page link from OSHA's website was  
18 suggested; however, until OSHA receives an answer from  
19 OMB, the budget will not allow this action.

20 OSHA has submitted an RFI to the OMB, with  
21 intent to proceed to a proposed rule-making procedure  
22 for a new standard on this issues.

1           It was recommended by ACCSH Chair Stafford  
2           that the Committee consider setting this work group  
3           aside, until OSHA hears back from the OMB on the  
4           proposed rule-making, and agrees to proceed to the  
5           rule-making process.

6           This would allow for the redirection of assets  
7           to other topics and work groups, until this subject is  
8           ready for additional oversight from ACCSH.

9           The motion was seconded by Gerald Ryan.

10          The Work Group will remain in suspense until  
11          OSHA confirms and OMB responds and agrees to proceed to  
12          the next step in rule-making.

13          There were 40 attendees, and the list is on  
14          the following page there. And with that, I conclude my  
15          report.

16          CHAIRMAN STAFFORD:           Thank you, Gerry.

17          Dan, anything to add?

18          MR. ZARLETTI:           Mr. Chairman, just there was an  
19          omission in the report, that I left out: Mr.  
20          Thibodeaux's contributions from the -- and it is just  
21          clearly an oversight.

22          We have it electronically, the report, and we

1 could add that in, if it's okay with you.

2 CHAIRMAN STAFFORD: Okay. Yes. Thank you.

3 MR. ZARLETTI: And we'll take care of that  
4 later.

5 CHAIRMAN STAFFORD: Thank you.

6 Okay. So we've heard the report. I'd like to  
7 entertain an motion to approve the work group report.  
8 Do we have a second?

9 COMMITTEE MEMBER: So moved --

10 CHAIRMAN STAFFORD: Do we have a second?

11 COMMITTEE MEMBER: Second --

12 CHAIRMAN STAFFORD: Second, Tom second. Okay.  
13 Any further discussion?

14 (No response.)

15 CHAIRMAN STAFFORD: I have a motion and a  
16 second. No further discussion. All those in favor  
17 signify by saying "Aye."

18 (Chorus of ayes.)

19 CHAIRMAN STAFFORD: Opposed?

20 (No response.)

21 CHAIRMAN STAFFORD: So we have Sarah, I  
22 believe a recommendation, and it's come out of the work

1 group that we now need to consider.

2 So Gerry, do you?

3 MR. RYAN: So I'd like to make a motion, I  
4 guess, to suspend this work group until we get those  
5 results.

6 CHAIRMAN STAFFORD: Okay. And so I think  
7 that -- pardon me?

8 (Discussion held off record.)

9 CHAIRMAN STAFFORD: So Sarah, I guess the  
10 motion would be to discontinue the Reinforced Concrete  
11 Work Group until we hear what the next step is, based  
12 on the RFI?

13 (Discussion held off record.)

14 CHAIRMAN STAFFORD: You can probably word it  
15 better than I can, Sarah, but that's the idea.

16 (Discussion held off record.)

17 CHAIRMAN STAFFORD: I guess this is a matter,  
18 we have to get the words correctly here. I'm not so  
19 sure we want to sunset it versus just set it aside  
20 until after the RFI goes out and OSHA collects  
21 information and tell us what the next steps would be.

22 COMMITTEE MEMBER: I'll second the motion.



1           MR. ZARLETTI:           Yeah, because we kind of need  
2 both, in that we need to know what OMB says back to  
3 OSHA, and then OSHA still has to agree to proceed.

4           So when that happens, both of those things  
5 happen, then when we meet again, we can decide that we  
6 bring this back on line.

7           CHAIRMAN STAFFORD:       Right. Okay. So.

8           (Discussion held off record.)

9           MS. SHORTALL:           So is your motion, then, that  
10 you move that ACCSH suspend work on the Reinforced  
11 Concrete Work Group until after the RFI is published,  
12 and OSHA determines whether to proceed with  
13 rule-making?

14          CHAIRMAN STAFFORD:       That sounds good.

15          MS. SHORTALL:           Okay.

16          CHAIRMAN STAFFORD:       Again, Gerry, you were  
17 very articulate --

18          (Simultaneous conversation.)

19          MR. RYAN:                I'm going to keep that in mind --

20          (Laughter.)

21          CHAIRMAN STAFFORD:       All right. So the motion  
22 has been made. Do we have a second?

1 Oh, I'm sorry, Chuck.

2 MR. STRIBLING: Oh, I'm sorry, I was waiting  
3 for a discussion.

4 CHAIRMAN STAFFORD: Okay. Have a second?

5 MR. HERING: I do.

6 CHAIRMAN STAFFORD: Okay, Bill seconds it.

7 The motion has been made and seconded.

8 Discussion?

9 MR. HERING: Could you read that back one more  
10 time?

11 MS. SHORTALL: Sure. Mr. Ryan moved that  
12 ACCSH suspend work on the Reinforced Concrete Work  
13 Group until after the RFI is published, and OSHA  
14 determines whether to proceed with rule-making.

15 MR. HERING: Just so I'm clear, the way I  
16 understand it, regardless if they decide to go forward  
17 or not go forward, the work group may reconvene to  
18 determine if there is something else that needs to be  
19 done.

20 We're not saying we're waiting for them to go  
21 forward with rule-making, because should they decide  
22 not to --

1 MR. RYAN: Correct.

2 MR. HERING: Okay.

3 MS. SHORTALL: We might decide to do something  
4 else.

5 (Simultaneous conversation.)

6 MR. RYAN: Correct.

7 CHAIRMAN STAFFORD: Okay. So we have a motion  
8 and a second. Any more discussion?

9 (No response.)

10 CHAIRMAN STAFFORD: All those in favor,  
11 signify by saying "aye."

12 (Chorus of ayes.)

13 CHAIRMAN STAFFORD: Opposed?

14 (No response.)

15 CHAIRMAN STAFFORD: Okay.

16 MS. SHORTALL: Mr. Chair, at this time, I'd  
17 like to enter into the record Exhibit No. 18, the  
18 approved Reinforced Concrete in Construction Work Group  
19 Report from the December 14th meeting;

20 And as Exhibit No. 18(a), OSHA's draft  
21 back-over web page;

22 18(b) OSHA Asbestos Safety & Health Topics

1 Page;

2 18(c) the Virginia Reverse Signal Operations  
3 Safety Requirements for Motor Vehicles Machinery &  
4 Equipment in General Industry and Construction, which  
5 is 16VA Code 25-97-10 at sequence;

6 As Exhibit 18(d) the Washington State Standard  
7 on Motor Vehicles in Construction Sites, which is  
8 Washington Code 296-155-610;

9 As (e) OSHA Handouts on Hand Signals used In  
10 Vehicle Backing;

11 And (f), OSHA Handouts on Backing Signals for  
12 Spotters.

13 CHAIRMAN STAFFORD: Okay. Thank you, Ms.  
14 Shortall.

15 I'm sorry, Gerry, do you want to do  
16 introductions? Okay. I guess since we have more folks  
17 in the room, maybe we should take a minute to do that.

18 So why don't we do that, then, very quickly,  
19 stop and have introductions.

20 My name is Pete Stafford. I'm an Employee  
21 Representative on ACCSH. I represent the Building and  
22 Construction Trades Department of the AFL CIO, and

1 Chair of the committees.

2 (At which time, all participants introduced  
3 themselves. Titles are given on Participants page.)

4 CHAIRMAN STAFFORD: Thanks, Sarah.

5 Starting in the back, to my right?

6 (More introductions are given, all titles  
7 given on Participants page.)

8 CHAIRMAN STAFFORD: Thank you. For those of  
9 you in the back, I would like to remind you that we'll  
10 have a public comment period at the end of today's  
11 session. So if you would like to comment, please sign  
12 the sign-in sheet in the back.

13 So we're going to move the agenda. MaryAnn  
14 Garrahan is going to do a presentation at some point  
15 this morning.

16 But until she gets here, I want to go ahead  
17 and pass out the next and last handout that I have.  
18 And this is for our discussion, that we can start now,  
19 but probably finish towards the ends of the meeting,  
20 about how we're going to reorganize the work groups  
21 under our Full Committee.

22 And as we talked about the other day, there's

1 going to be a maximum -- of resources in our hopes to  
2 focus in, so that we can actually come up with some  
3 outcomes and products, that we're going to have a total  
4 of six work groups under ACCSH.

5 And the way things are looking in terms of our  
6 work groups today and our discussions, that there's a  
7 potential that we would either suspend or eliminate  
8 possibly three of the six work groups today, that when  
9 we go into our April meeting, we'll have a  
10 reorganization of up to potentially three new work  
11 groups.

12 And these are just my thoughts. I know that  
13 many of you have others. And I've talked to Jim Maddux  
14 about this over the course of the last couple of weeks,  
15 and some of you ACCSH members as well, informally about  
16 what you would like to see in terms of new work groups.

17 And I think this is driven a lot by what it is  
18 that the Directorate of Construction really is looking  
19 at for this Committee in terms of guidance on.

20 And there are many, many issues and subjects  
21 that we could be addressing. So it's just really a  
22 matter of us collectively prioritizing what we think

1 would be the best work groups that we could put  
2 together here, in order to guide ACCSH.

3 So I'm just sharing with you some of my  
4 thoughts, the few that I thought.

5 And we just heard from the Reinforced Concrete  
6 Group that we've just officially suspended that work  
7 group for now.

8 And we talked yesterday about the potential of  
9 suspending the Prevention and Design Work Group, that  
10 that work group, as we've made recommendations on what  
11 we would like to see OSHA do now with prevention and  
12 design, and that's mostly in the developing and  
13 dissemination plan, and getting information out on the  
14 issue of the Prevention through Design Alliance.

15 So that's also another work group that I think  
16 that we need to consider suspending for now.

17 And the third I think I'll leave up to our  
18 co-chairs, Steve and Chuck, and that is the Backing  
19 Operations, that kind of in the same boat as the  
20 Reinforced Concrete, and that, you know, OSHA has gone  
21 ahead and submitted an RFI to OMB, and waiting for that  
22 to be cleared.

1           And then OSHA will publish that RFI in the  
2 Federal Register, and have, I believe, 90 days or 120  
3 days, or whatever it is, to collect that information,  
4 and then make a determination on how they would like to  
5 proceed.

6           So that's clearly between now and our April  
7 meeting. We're probably not going know much more now  
8 about the results of the RFI.

9           So I think that's also potentially a work  
10 group that we might want to set aside, or suspend until  
11 we know what's happening with that.

12           With that said, one of the recommendations and  
13 what we heard from the work group is that they would  
14 like to continue -- and OSHA has already started the  
15 development of a website on Backing Operations.

16           So if there's enough products or if there's  
17 enough work where OSHA is looking for guidance from  
18 this Committee and our work group, then maybe that's  
19 something that we don't want to consider for now.

20           So I think that in terms of this discussion,  
21 these are just ideas.

22           And I put on there, Kevin, you know, your



1 suggestion that on the Reinforced Concrete, while we're  
2 waiting to see what's going to happen with rule-making,  
3 that there may be things that we could do to get  
4 information out into the industry.

5 And if you listen to our work group, short of  
6 regulation, I mean, almost everything that we're  
7 talking about is how we could collectively -- how OSHA  
8 and the how the industry, all of us -- could take the  
9 information that we know and get it out.

10 So there are a lot of different topics that  
11 we're talking about, and a lot of them come down to how  
12 we disseminate. So I just thought it may be warranted  
13 to think that we have a work group dealing specifically  
14 with that.

15 So again, these are just food for thought for  
16 our discussion. And I'd just like to open it up for  
17 anyone's opinions or thoughts on what you would like to  
18 see, moving forward.

19 Yes, Kevin?

20 MR. CANNON: I guess it would be helpful if,  
21 you know, we could get an understanding as to what the  
22 charge or mission would be for those potentially.

1           Yeah.           If you could explain what each of the  
2   six would be possibly addressing, if they were to be --

3           CHAIRMAN STAFFORD:           Okay. Yeah, I'll take a  
4   quick shot at that. And I'm open to your suggestions.  
5   and in terms of new work groups -- and I know that  
6   Walter previously was the co-chair, and I'm not sure  
7   who with Walter, of previously in the Safety & Health  
8   Training Work Group?

9           MR. JONES:           Tom Shanahan.

10          CHAIRMAN STAFFORD:           Tom Shanahan, okay. I put  
11   that back on, because from my perspective, this is very  
12   important. Over the last couple of years, you know, my  
13   organization and I'm sure some others around here are  
14   authorized, we run an OSHA OTI.

15          And due to some fraudulent issue of ten-hour  
16   cards a couple of years ago, there has been a lot of  
17   policy changes that OSHA has made with respect to how  
18   you run these programs, what the curriculum includes,  
19   pre-requisites for our instructors. Those kinds of  
20   issues.

21          And you know, OSHA most recently went directly  
22   out to shareholders, asking for comment about OTI and

1 what the stakeholders would like to see in training.

2 And it was my view that if OSHA wants to talk  
3 to stakeholders about training that impacts this  
4 construction industry, that this Committee is a  
5 committee that's supposed to bring stakeholders  
6 together to provide comment back to OSHA.

7 So I would have liked to have seen as a first  
8 step the OTI folks come to this group and talk to them  
9 about their plans on policy changes for how this  
10 program is delivered and run.

11 And despite that, beyond OSHA, I think this is  
12 a right work group, because there's so much going on in  
13 terms of Safety & Health Training.

14 My organization alone, just under our umbrella  
15 of an OTI, with instructors that we have in our  
16 network, three years ago, we issued just our OTI,  
17 125,000 OSHA 30 and OSHA ten-hour cards.

18 Last year, we were down to about 90,000 OSHA  
19 30- and OSHA 10-hour cards. And this year, we're  
20 tracking at about 60,000. And this is, I think, a  
21 direct reflection of what's happening in this industry.

22 As you know, since the bottom fell out of this

1 industry in 2007 -- I don't know the data right this  
2 second -- but we have lost 2.5 million jobs in the  
3 construction industry in the United States.

4 And because many of our unions, the groups  
5 that we work with, I would say that our numbers are  
6 down, attributed primarily to the fact that work is  
7 down. And a lot of our apprenticeship programs require  
8 this as mandatory training, and if you don't have  
9 apprentices in the hall, you're not training them.

10 So I think that's what's happening to us.

11 So I think this work group cannot only deal  
12 with OTI, but training generally in supervisory  
13 training, worker training.

14 How we evaluate training is something that we  
15 need to continue to look at.

16 So those were my thoughts about what the  
17 Safety & Health Training Work Group would do.

18 Construction Standard Improvement Project: I  
19 think we're going to hear from Paul today. And this  
20 may be something that's not right. But I don't know,  
21 this may be a kind of a really fast-track kind of  
22 thing.

1           And it may be instead of dealing on a work  
2 group on this issue, Jim, that maybe this is just  
3 something that we deal with directly in the full ACCSH.

4           So this is just something that I threw out as  
5 a possibility, and I welcome your feedback on that.

6           MR. MADDUX:           Yeah. Well, I think that it  
7 could go either way. I mean, right now -- and you'll  
8 hear from Paul later -- we're just sort of collecting  
9 potential candidates.

10          CHAIRMAN STAFFORD:           Mm-hmm.

11          MR. MADDUX:           You know, for SIPs. So it's  
12 something that, you know, certainly a work group could  
13 come forward with some potential candidates and help us  
14 with that.

15          Or it could be something that the Full  
16 Committee, you know, maybe at their next meeting could  
17 just discuss. You know, by that time, we might  
18 actually have the RFI out and you know, it would just  
19 be another contribution to that effort.

20          So I think it could go either way.

21          CHAIRMAN STAFFORD:           Okay.

22          And we'll just run through these real quickly.

1 And then we can come back generally for the group  
2 discussion. But I see that MaryAnn is here.

3 Inspection targeting is something that, you  
4 know, this Committee has addressed before my time,  
5 sitting in the audience, listening to these  
6 discussions, going back many years.

7 Dr. David Weil with Harvard U and Boston  
8 University did a research project actually funded by my  
9 organization about 15 years ago now, and took a look at  
10 the way the University of Tennessee stratified the  
11 Dodge data, and made recommendations specifically on  
12 how there could be different things, in order to take a  
13 look at how we target in the construction industry.

14 Knut Ringen, my predecessor at CPWR for Bruce  
15 Swanson, when he ran the Directorate of Construction,  
16 likewise did a similar report and came up with those  
17 same kind of recommendations.

18 And I just think that, you know, the area  
19 where we have limited resources, even though OSHA  
20 federally -- I don't know about the states, so it would  
21 be great to hear from Steve and Chuck, when we have  
22 this conversation -- I think if you looked at David

1 Michael's Powerpoint yesterday, at least 50 percent of  
2 construction enforcement resources to the construction  
3 industry.

4 But it's my view that there are ways in which  
5 we can do a better job of targeting the industry. I  
6 think the complaints that, you know, I've heard from my  
7 affiliated unions over the years about the Dodge data  
8 is that I you use the Dodge data solely, the way it's  
9 stratified, you usually end up on the larger projects,  
10 looking at the larger contractors, who in comparison do  
11 a relatively good job in safety and health performance.

12 And we know by the data, that most of our  
13 injuries and a significant portion of our fatalities  
14 are coming from the medium-to-small-size employer.

15 So the question becomes: How do we get at  
16 those folks?

17 And that's why I put that on the list.

18 Again, I'm open for discussion on that.

19 Surveillance: Again, we need data. I mean in  
20 every work group that we talked about backing  
21 operations, what I took out of the meeting is I guess  
22 there's 50 runovers or backovers nationally in the

1 United States.

2 A third of those are in construction. And  
3 it's 15-20 fatalities in the construction industry.

4 But I'd like to know more about what, where,  
5 and how those things happened. And I'm sure that we  
6 could probably do that.

7 And that's just one example of why I think  
8 that we need to look more closely at the data, from  
9 terms of what we're offering to OSHA in terms of  
10 recommendations on regulations.

11 It's clear, I mean, that you talked regulation  
12 and immediately the initial knee-jerk reaction from the  
13 industry is "No. No regulation."

14 And so if we're going to move on regulation,  
15 then we'd better have the information that we need and  
16 support for why regulation is appropriate.

17 So I think the more that we can collect on the  
18 data that we have to support what we want to regulate  
19 is extremely important.

20 And I would, again, like your views on that.

21 New technologies, best practices: We've kind  
22 of set up what used to be the health hazard/green has



1 now become health hazards/emerging issues. So maybe  
2 the emerging issue kind of thing would be something  
3 that would fit in there.

4 And I would see, Walter, anything that we'd  
5 want to do on prevention through design may handled  
6 through this work group, as an example.

7 And in talking to our employers, you know,  
8 there's other things going on in dealing with all kinds  
9 of issues, and green.

10 You know, the National Academy of Sciences is  
11 now doing a study, looking at offshore wind farms and  
12 you know, looking at both worker safety and health  
13 issues and jurisdictional issues.

14 So that's kind of a catch-all category, that I  
15 thought that we could you know, kind of address under  
16 this work group.

17 And then the last one I've already mentioned,  
18 Kevin, was the Communications Dissemination. Because  
19 it seems like to me a lot of what we're recommending or  
20 suggesting is how we move the information that we know  
21 out into the industry.

22 So that's kind of the summary of what I was

1 thinking in putting these together.

2 So Jim, do you want?

3 MR. MADDUX: Yeah. No, I think that these are  
4 really some good ideas for the agency to consider. And  
5 I'm hoping at the 11:00 session, you know, that we can  
6 have really a kind of a good discussion about what  
7 makes sense here.

8 Because I think we do want to establish some  
9 work groups, so that over the next couple of years, we  
10 can work on some problems.

11 A couple of sort of suggestions:

12 One is that under surveillance, that we might  
13 also want to consider evaluation as a very large  
14 component of that. Because I think the two kind of  
15 tend to go hand-in-hand.

16 And as Dr. Michaels explained yesterday, there  
17 has been a real interest in doing some additional  
18 evaluative work. And he had asked the Committee to  
19 think about other ways of evaluating, you know, OSHA's  
20 program or you know, other safety and health things.

21 CHAIRMAN STAFFORD: Okay. I appreciate that.  
22 So we'll continue this discussion, then, at 11:00.

1 MR. MADDUX: Okay.

2 CHAIRMAN STAFFORD: All right, thank you, Jim.

3 Okay, MaryAnn Garrahan, I had to get Ben to  
4 straighten me out on what DTSEM stands for. But I  
5 think I've got it. It's the Directorate of Technical  
6 Support and Emergency Management.

7 MS. GARRAHAN: Good morning.

8 CHAIRMAN STAFFORD: Good morning

9 MS. GARRAHAN: Yes, it's the Directorate of  
10 Technical Support and Emergency Management, and I have  
11 with me today Dr. Minda Nieblas, who is also going to  
12 be speaking.

13 And it is a pleasure to be here. And it was I  
14 guess seeing your recap on your work groups. Because I  
15 believe that what you'll hear from what our directorate  
16 is all about. Many areas fit in very nicely with some  
17 of the direction that you plan to go in.

18 Our directorate is very much a service  
19 organization. And in the sense that we provide  
20 technical support to our field, and also outreach to  
21 our various stakeholders, we're very technical driven  
22 in that we have engineers, industrial hygienists,

1 ergonomists, toxicologists, physicists, occupational  
2 health nurses, occupational physicians, a number of  
3 technical disciplines.

4       And one of our goals this year -- and I'll be  
5 mentioning it as I go through some of the various  
6 offices -- we have five offices, and we have three  
7 technical centers, which I'll be describing; and just  
8 briefly mentioning some of the areas that might touch  
9 on areas of interest to you.

10       But one of our goals this year is assisting  
11 our agency in expanding our preparedness in industrial  
12 hygiene. So you'll hear that as I go through some of  
13 the initiatives that we planned for this year.

14       We do work very closely with all our  
15 directorates, particularly our directorates of  
16 enforcement programs and construction.

17       Right now, we are borrowing Eric Harbin, one  
18 of the office directors in construction. He's helping  
19 us lead our directorate.

20       And as I go through the boxes here of our  
21 office, our Occupational Health Nursing Office, I'll  
22 mention one thing there that we want to engage this

1 Committee in.

2 And that is we plan a young worker initiative  
3 campaign. We're teaming up with our wage-and-hour  
4 folks. And we are going to be doing a Know Your Rights  
5 campaign.

6 And you know, certainly, there are young  
7 workers in construction, and we'll be again trying to  
8 team up with you on that.

9 Our Office of Technical Programs and  
10 Coordination Activities, you know, mentioning a couple  
11 of programs there, that you might be familiar with.

12 I know the variance program, there were  
13 discussions yesterday on the tunnel-boring machine.  
14 You know, we expect a variance application later this  
15 month for some work to be done in the District.

16 There are other construction-related variances  
17 that we have in effect. I'll mention one other one.  
18 We call it our Chimney Variance. It allows employers  
19 to use a rope-guided hoist system, inside and outside  
20 chimney construction, to raise and lower workers.

21 We have several that are issued.

22 And again, some of these variances, such as

1 the TVM, are triggered by new technologies, something  
2 different than when the standards were written. And  
3 likewise, this chimney one as well.

4 We've had chimney variances for years, and we  
5 realize the technology has changed a little bit. So  
6 we're in the process of trying to update all the ones  
7 that are issued, to make sure they're the most  
8 protective.

9 And we've worked with both industry and labor  
10 on getting the conditions down.

11 The other program you may or may not be  
12 familiar with is our nationally recognized Testing  
13 Laboratory Program. And you know, basically, there are  
14 many products that are standards require that third  
15 parties, these NRTLs test and certify, before they can  
16 be used in the workplace.

17 So very much a growing program.

18 We have a lot of international involvement.  
19 We've had the European Union trying to get us to go to  
20 more of a self-declaration of conformity system.

21 We've worked on RFIs. We've concluded that  
22 from what we've gathered, it's not as safe as a third

1 party, and you know, there is still a lot of  
2 international interest in that program.

3 The other area is our occupational medicine.

4 We have a physician, Dr. Nieblas, who is going to be  
5 describing one area that their office is involved in.

6 They get involved in a number of  
7 medical-related issues. Particularly, they serve our  
8 field. Oftentimes they go on site. And there are  
9 areas where they get involved with national committees,  
10 and do advisory and consultation assistance.

11 The Science Technology Assessment Office, it's  
12 the area where we're putting a concentration this year,  
13 in terms of, as I mentioned, industrial hygiene, and  
14 also to try to update safety chapters in our OSHA  
15 technical manual.

16 A couple of the chapters that we plan on  
17 working on finishing is our confined space, and ethanol  
18 processing one, and also chemical sampling.

19 You may have heard, with the emerging work  
20 group, that we have initiated an emerging Issue  
21 Surveillance system, and we're still in the early  
22 stages of it, but we feel it's a very important

1 initiative, where we're trying to be more proactive on  
2 issues.

3 We have quite extensive information that's  
4 shared internally on an internal OSHA Wiki page. We  
5 call it our OSHApedia.

6 And our plan is to, again, evaluate what we're  
7 collecting, and then figuring out how we apply that,  
8 and what we share with the public.

9 And we also work on compliance assistance  
10 products throughout the directorate, including this  
11 particular office, which is the one office that led the  
12 heat campaign that I know Dr. Michaels talked about and  
13 many of you are familiar with.

14 We'll be working with the Directorate of  
15 Construction on the fall campaign this year. And there  
16 are many other areas too.

17 Now our Office of Emergency Management, it's  
18 been a busy, busy year this past year. As many of you  
19 are familiar with, the fact that there were some deadly  
20 tornadoes and hurricanes, floods, you know, et cetera.

21 There was a lot of work the agency did in  
22 those areas, a lot of debris management work.



1           Joplin, Missouri, one example of, I guess it  
2 was about a seven-by-one-mile area that was totally  
3 destroyed by a tornado.

4           And there are a number of challenges.           As you  
5 could probably imagine, they tried hiring a lot of  
6 local people, who were not trained to actually do a lot  
7 of the work.

8           And so OSHA was involved in technical  
9 assistance and enforcement throughout many of these  
10 disasters.

11          So we provide assistance internally, outside,  
12 during the disasters, and we also coordinate  
13 nationally.

14          Our technical data center is located right in  
15 this building. Many of you may be familiar with that.  
16 For example, the Advisory Committee notes get put into  
17 our docket, all our standards in the docket, our  
18 variances are there.

19          So it's the home of the docket.           And also  
20 there is other technical information that we have;  
21 internally within OSHA, we've gotten a lot of  
22 information on line.

1           You know, right now we're assisting our field  
2 effort with our national emphasis program on chemicals.  
3 And we are gathering consensus standards that our field  
4 needs. And we're having these all electronically  
5 available to our staff, in addition to other things.

6           Many of you may be familiar, we have two  
7 technical centers, one in Cincinnati and one in Salt  
8 Lake City.

9           Our Cincinnati one actually evaluates and  
10 calibrates, gets our technical equipment ready. They  
11 order for our field.

12           They've teamed up recently with our Salt Lake  
13 Technical Center in doing a webinar on a noise-sampling  
14 strategy, where we're emphasizing noise as an agency,  
15 and working on other ways of servicing the field.

16           Our Salt Lake Center is an accredited  
17 laboratory. It has what you may have heard of, a  
18 health response team. Very, very technical expertise  
19 in that team, that goes about helping our field on  
20 unusual cases.

21           And we also have, which is lesser known and  
22 we've developing more, is a Material Failure Analysis

1 section of our laboratory, particularly if there are  
2 explosions or something doing with material failures  
3 they get involved with.

4 And they also are involved with maintaining  
5 our electronic products. And we have Safety & Health  
6 topic pages, and eTool, you know, et cetera.

7 And with that, I'd like to talk a little bit  
8 about social and mobile media. You know, it's  
9 something that our directorate works very, very closely  
10 with. We've started internally, I mentioned like an  
11 OSHApedia, a Wiki system.

12 It really is changing the way people interact.  
13 And I know this Committee is very interested in this  
14 topic as well.

15 Really, this past June, the sales of the  
16 laptops and PCs were overtaken by the sales of the  
17 Smartphones. And the research that we've gathered is  
18 that particularly reaching the hard-to-reach,  
19 vulnerable workers, they're on their Smartphones, and  
20 not necessarily on the laptops.

21 So OSHA and the Department are beginning to  
22 delve into the social and mobile media more.

1           Some of the areas you might see, for example,  
2   there is the little red -- I guess you can't quite tell  
3   what it is in the corner on the left-hand side  
4   there -- it is a QR code. I don't know if everyone's  
5   familiar with them. You see them everywhere now  
6   actually.

7           And the QR codes are used with mobile devices  
8   as a short cut to information. And it could be linking  
9   to web pages or text. And you know, they're placed on  
10  many things.

11          And they have advantages, because you can  
12  reach people from a marketing standpoint, giving so  
13  much information; and then people can use their phones  
14  to get to additional information.

15          You actually see them in parks now, signs that  
16  give further information and directions. They're all  
17  over in types of advertising.

18          OSHA has actually started using them, as well.

19          Wikipedia has 17 million articles.           And we're  
20  working with other federal agencies, and also the  
21  European Union. We're doing a pilot with them in terms  
22  of trying to get pages developed cooperatively by using

1 a Wikipedia method.

2 During the Deep Water Horizon Oil Spill  
3 response, the U.S. Coast Guard posted its photos to  
4 Flickr. And the reason the Coast Guard did this was to  
5 promote the transparency and to help, you know, in  
6 terms of any types of prevent fear.

7 People are less afraid of what they can see,  
8 even if it is in photos and not in person. So, you  
9 know, you may have heard that OSHA recently had a photo  
10 contest, in which the winning photos were posted to  
11 Flickr.

12 And the other thing you see up there is  
13 Twitter. Twitter averages 190 million tweets per day.  
14 You know, NIOSH has four Twitter feeds.

15 Right now our Twitter is through the  
16 Department. OSHA doesn't tweet from OSHA per se, at  
17 this point. But we do tweet every time we have a news  
18 release, and we tweet other things too.

19 And the Department has a Facebook page. There  
20 are 750 million active users of Facebook.

21 So basically, OSHA needs to prepare for the  
22 continuing evolution of the social and mobile media. I

1 mentioned that we do internally use OSHApedia. We plan  
2 to do some pilots using the public Wiki, with some of  
3 our Safety & Health topic pages.

4 We're working with our office communication on  
5 the QR codes. As many of you know, under a heat  
6 campaign, we issued an eTool Smartphone app, and three  
7 platforms.

8 And in addition, one area that I'm going to  
9 show you -- and many of you are familiar with -- is our  
10 animated construction videos, that we working closely  
11 with construction.

12 And one area that we are also considering  
13 internally is a bulletin board on our OSHApedia, so  
14 that we can communicate internally in terms of posing  
15 questions.

16 And I included a picture -- the bottom  
17 picture -- that's a car that also is a plane. And you  
18 know, we've asked our administrative folks who control  
19 our budget whether or not maybe that's something for  
20 the future of OSHA, particularly in the D.C. area, with  
21 all the traffic.

22 You know, I mentioned the apps. The

1 Department is using Challenge.gov, if you are familiar  
2 with that, where we are trying to challenge the public  
3 to come up with different types of social and mobile  
4 media to develop, that would be something that would be  
5 helpful.

6 In our case, we're giving suggestions for  
7 Safety & Health topics.

8 And with that, we're going to talk a little  
9 bit about that we have 13 animated videos that were  
10 developed for employers and workers. They discuss the  
11 most common and/or effective abatement methods;

12 They're based on real life incidents, and  
13 cover falls, struck by strains and sprains, excavation  
14 and carbon monoxide hazards.

15 The one we're going to show today -- and by  
16 the way, we have to do this quickly -- we had some  
17 funding, worked with the contractor, but unfortunately  
18 you have to work very quickly, because otherwise, the  
19 dollars get wasted.

20 But we were able to work with, you know, some  
21 labor and industry in terms of getting them looked at  
22 before they went public. You know, we really

1 appreciate all the support, from particularly the  
2 Directorate of Construction.

3 So we're showing you one that's the back-over  
4 accident.

5 (Video plays.)

6 MS. GARRAHAN: The hiccups had to do with our  
7 laptop technology, not actually the videos.

8 But I do want to mention that the videos were  
9 just posted, they were rolled out November 14th. And  
10 actually the videos were posted on our DOL server and  
11 the Youtube on October 24th; they were rolled out  
12 November 14th.

13 The video's pages have been viewed 57,436  
14 times. And they were looked at 12,139 views on  
15 Youtube. And we also have these in Spanish, as well.  
16 So there have been folks looking at them in Spanish.

17 We have them also available without any  
18 language, so that the language can be inserted. We  
19 have the text of the video available.

20 And so, again, we feel that this type of short  
21 clip is something that should be helpful. We certainly  
22 are interested in you feedback on them.



1           And right now I'm going to turn it over to Dr.  
2 Nieblas.

3           MS. NIEBLAS:           Good morning, everyone.

4           Today I'm going to talk to you a little bit  
5 about an older toxicant that seems to be being used for  
6 a newer purpose.

7           And I have to acknowledge Dr. Kathleen Fagan;  
8 she's our Office Acting Director. And she's actually  
9 done a lot of the work regarding these cases, and this  
10 issue.

11          So she couldn't be here today, but I just  
12 wanted to acknowledge her.

13          Basically, our office alone has been involved  
14 in several investigations of worker fatalities,  
15 including workers who are stripping paint off bathtubs,  
16 using strippers or paint removers containing methylene  
17 chloride.

18          The work involves either spraying or pouring  
19 the substance into the tub, and painting up the walls,  
20 letting it sit and then scraping it off with a scraper.

21          The fatalities have been strikingly similar.  
22 Basically, they're taking place in a small,

1 unventilated room;

2       The workers have inadequate or no respiratory  
3 protection. They have not really had any training  
4 regarding the hazards of methylene chloride. They're  
5 working alone. And their employers really weren't  
6 following our standard for methylene chloride.

7       And in some of the cases that we've  
8 investigated this year, the workers were basically  
9 found unresponsive, slumped over the tub, and  
10 pronounced dead at the scene.

11       Methylene chloride, for a little refresher, is  
12 a chlorinated solvent. And it's common in paint  
13 strippers. It can harm you in a variety of ways,  
14 mostly related to how your body utilizes oxygen.

15       It's a simple asphyxiant, so at high-enough  
16 concentration, it just replaces oxygen in the  
17 atmosphere, and basically suffocates you.

18       It's also, like many solvents, a central  
19 nervous system depressant. So it basically renders you  
20 unconscious and suppresses your breathing drive. So at  
21 some point you stop breathing.

22       And finally, it's unique in that the body

1 metabolizes it into carbon monoxide. And of course,  
2 that replaces oxygen on your hemoglobin molecules; and  
3 that prevents it from getting to your vital organs,  
4 like your brain and your heart.

5 And that can happen at lower concentrations.  
6 And especially people who might have underlying heart  
7 disease are particularly susceptible, both to the  
8 direct effects of this solvent, and to the carbon  
9 monoxide.

10 It also is metabolized in the body into  
11 formaldehyde, and it is considered a Class 2b  
12 carcinogen.

13 These are some examples of some of the  
14 products that have been used in operations. And you  
15 can see their percentage of methylene chloride. And  
16 use of these in a situation certainly exceeds our OSHA  
17 PEL of 25 ppm, and our STEL of 125 ppm.

18 They did some sampling of one bathtub  
19 stripping operation -- OSHA did -- and found a level of  
20 2,217 ppm. And the NIOSH IDLH level is actually 2,300  
21 ppm. So it was very close to that.

22 These are, of course, the standards that apply

1 to methylene chloride, for the general industry, which  
2 I put up there because the construction standard says  
3 refer to the general industry.

4 We have some residents who worked with us, and  
5 we had a very interesting young man, who kind of went  
6 back and looked through our Integrated Management  
7 Information System, our IMIS database, to look at this  
8 situation;

9 And he found that before 2000, there were 42  
10 worker fatalities in our IMIS system related to  
11 methylene chloride; but only one of those was even  
12 related to anything to do with work involving a  
13 bathroom. And that was a tile reglaser.

14 But after 2000, we've had 16 worker fatalities  
15 reported that were related to methylene chloride, and  
16 21 of those involved bathtub re-stripping operations.

17 So over the past decade, this seems to have  
18 been really increasing.

19 The victims have ranged in ages from 23 to 52.  
20 Most were male, but we did have one female. They're  
21 distributed across the country.

22 But they're typically involved in operations

1 that are in some sort of residential refinishing or  
2 refurbishing operation.

3 So Michigan had noted three of these cases,  
4 and actually published a hazard alert on this. And  
5 when we were looking into this, we contacted Michigan.

6 Their hazard alert is on their fatality  
7 assessment and control evaluation page, their face  
8 site. And our OSHA quick-takes in November 1 actually  
9 linked to their hazard alert.

10 OSHA and NIOSH are working together to develop  
11 our own hazard alert. We hope to have that out early  
12 next year.

13 And we're also looking at publishing some of  
14 these cases in the Morbidity Mortality Weekly Report,  
15 put out by the CDC.

16 And NIOSH is working in an alliance with their  
17 Consumer Product Safety Commission on this issue, as  
18 well.

19 So some of the remaining questions -- and I  
20 think this work group might have some good input into  
21 this -- is of course, substitution would be key; but  
22 right now we've told sanding and formic acid team to be

1 something that's substituted for that. And those  
2 aren't necessarily ideal either.

3 You know, developing safe work practices  
4 around this operation is particularly challenging,  
5 given that these are small, unventilated areas.

6 And also it's going to be a challenge to  
7 disseminate this information to the population, because  
8 these tend to be, you know, one or two person, small  
9 operations, that may be hired through just, you know,  
10 an apartment manager or something like this.

11 And most of the products that I showed you on  
12 the first page are pretty much available at, you know,  
13 hardware stores or over the Internet.

14 So you know, we just need to make sure that  
15 when we get this information out, it's reaching those  
16 people that are particularly vulnerable.

17 And that's all I have.

18 MS. GARRAHAN: Okay. We're available for any  
19 questions you might have.

20 CHAIRMAN STAFFORD: Thank you.

21 Questions or comments? Tish?

22 MS. DAVIS: I have some comments. But the

1 first question on the backover finishers. Do you have  
2 the job titles? Are these maintenance workers? Are  
3 they glasers? Are they housing project janitors?

4 Do we know what the job titles and  
5 occupations --

6 MS. NIEBLAS: And I couldn't say it directly,  
7 but it seems to be when they're turning over like an  
8 apartment for a new person coming in, it's a person  
9 that's brought in to do this.

10 So I don't know if it's inherently like the  
11 maintenance staff, but it seems to be someone who is  
12 hired by the apartment manager or a general contractor,  
13 and they do these.

14 But I couldn't give you the actual job codes  
15 for this.

16 And those are just a few cases that I've  
17 looked at.

18 MS. DAVIS: I mean, just a couple of outreach  
19 options that we've just in Massachusetts, one is the  
20 housing authority.

21 The other is the home insurance folks.

22 And I'm just thinking, there might be

1 something with the realty industry.

2 CHAIRMAN STAFFORD: Mm-hmm.

3 MS. DAVIS: So I'll go back and talk to my  
4 staff about this.

5 MS. NIEBLAS: Well, thank you very much.

6 MS. DAVIS: But they're just different players  
7 than we'd really use to typically --

8 (Simultaneous conversation.)

9 MS. NIEBLAS: And it's true, because it seems  
10 to be their, you know, renovation or a turnover of an  
11 apartment --

12 MS. DAVIS: Yeah, like Renovator Supply  
13 Magazine, getting on the last page.

14 (Laughter.)

15 MS. DAVIS: Seriously, you know, so think out  
16 of the box.

17 MS. NIEBLAS: Well, thank you. Thank you very  
18 much.

19 CHAIRMAN STAFFORD: Walter, did you have a?

20 MR. JONES: Walter Jones, Employee Rep.

21 What do you think is driving this sudden  
22 increase? You call it an emerging hazard. What's



1 really driving it?

2 Because I have an ancient bathroom, that I  
3 thought I was going to refinish myself, until this  
4 week.

5 (Laughter.)

6 MR. RYAN: Especially with your track record.

7 MR. JONES: I know.

8 (Laughter.)

9 MR. JONES: So what do you think is driving  
10 this? Because it's not like this is new; that these  
11 type of tubs have been around for a long time; and I  
12 would imagine this stripping may or may not have been  
13 going on for a while?

14 Or why suddenly the increase?

15 MS. NIEBLAS: And this would be just  
16 conjecture. I couldn't back this up.

17 MR. JONES: No, exactly.

18 MS. NIEBLAS: It's possible, first of all,  
19 that more people may be renovating instead of  
20 purchasing something new.

21 But I did just sort of a Google search on  
22 this, to see if I was just wondering how to re-strip a

1 bathtub, would I kind of come across it.

2 And I think that may be where some of  
3 it -- it's a little bit of word of mouth -- you'll see  
4 these strippers, they don't say "bathtub strippers,"  
5 they say "aircraft paint" or "marine paint."

6 And so I think what happened is they found  
7 this was strong and fast versus sanding; and not really  
8 understanding that it also contained something that  
9 could potentially kill them.

10 So I think perhaps that might be where part of  
11 the situation came from. So.

12 CHAIRMAN STAFFORD: Okay.

13 Matt, I know this was one of the topics in  
14 your work group, and I kind of was in and out of that  
15 work group. Were there any recommendations that you  
16 had made on this issue?

17 MR. GILLEN: One was we thought it might be  
18 useful to reach out to the trade association. There  
19 are a couple of them. I think one was called the  
20 Professional Bathtub Finishers Association, or  
21 something.

22 And you know, involving them. And then they

1 might help disseminate the product to their members.

2 MS. NIEBLAS: Thank you.

3 CHAIRMAN STAFFORD: Any other questions or  
4 comments?

5 (No response.)

6 CHAIRMAN STAFFORD: I just have a few on the  
7 disaster response, because this is an area we're  
8 interested in in our office.

9 We have now for years under our NIHS program  
10 that you may be familiar with, have been trying to  
11 train construction workers that we got started on after  
12 9-11-01 and are training up at the World Trade Center.

13 And it's been very difficult for us when we  
14 tried to respond to Katrina, as well, to you know, we  
15 have instructors in place to train our members.

16 But in the end, like at Katrina mostly, our  
17 members weren't doing the work, and FEMA wasn't  
18 requiring a lot of specific Safety & Health Training  
19 before workers were dispatched out into these kind of  
20 cleanups.

21 And I would imagine the same thing was in the  
22 Gulf Coast Oil Spill. Although in the end, I believe

1 those workers ended up with, I believe, either a four  
2 or six-hour training. I think you can correct me on  
3 that.

4 And I don't know if it's a variance or a  
5 compliance directive; but after the oil spill of Valdez  
6 Exxon, that you know, we would assume that the Team  
7 10-120 would kick in, that the workers had the 40-hour  
8 HAZWOPER.

9 And of course, it was a compliance directive  
10 or a variance that allowed them not to have that.

11 And I just wanted your opinion on that, in  
12 terms of these kinds of variances or directives that  
13 doesn't require that workers are trained to 1910-120  
14 specifications.

15 MS. GARRAHAN: Yeah. Well, actually I'm very  
16 familiar with it, because when the HAZWOPER standard  
17 came out HAZWOPER standard first came out, I was the  
18 lead agency expert on the HAZWOPER standard for many,  
19 many years;

20 And I was involved way back, when we had the  
21 oil spill in Valdez. And I think there is some  
22 misunderstanding of, you know, what is going on here in

1 terms of there is a provision in the HAZWOPER standard  
2 that does allow for a lesser degree of training,  
3 depending on the circumstances.

4 And they're very -- we consider it in terms of  
5 significant evaluation of what the circumstances are  
6 before allowing less.

7 And in the case, for example, of the BP oil  
8 spill, it was not only OSHA; it was other fellow  
9 agencies, you know, that worked very closely with BP to  
10 assure that really the hours of training, in terms of  
11 there's not a magic number, when it's in the lower  
12 numbers in terms of if it's less than what's specified,  
13 whether 40 hours or 24 hours, it's like "What do these  
14 people need to be trained on to do their job?"

15 And that's the way we were looking at it from  
16 the standpoint of: If these workers needed to train in  
17 certain areas, how long does it take them to be trained  
18 in those areas? And what did that come up to?

19 And in that case, you know, it was lesser  
20 hours than the hours that are specified under the  
21 emergency response or the clean-up workers, because of  
22 the uniqueness of what job duties and responsibilities

1 that they had.

2 And so, you know, what we have found too is if  
3 people are trained in areas that they're not ever going  
4 to be using, and it's not significant to them, then  
5 they're losing sight of those areas that really are  
6 significant within that training.

7 So if they're sitting through a 40-hour  
8 course, where only you know, four hours might be  
9 something that they're going to be using, then they're  
10 actually not getting the benefit of really  
11 concentrating on those areas that they need to be  
12 trained on.

13 CHAIRMAN STAFFORD: Okay. So who makes that  
14 decision ultimately? And like in Katrina, when we were  
15 down there working. Is that a FEMA decision? Or an  
16 OSHA/FEMA decision? Or an OSHA decision? Or?

17 MS. GARRAHAN: Well, ultimately, it was the BP  
18 that had to assure the protection of the workers.

19 CHAIRMAN STAFFORD: Mm-hmm.

20 MS. GARRAHAN: And you know, the contractors  
21 had to assure the protection of their workers.

22 We were in an advisory capacity, and NIHS was

1 as well. And you know, I wasn't exactly involved in  
2 that particular BP area.

3 So it's difficult for me to talk about  
4 specifics on that.

5 CHAIRMAN STAFFORD: Okay. Thanks.

6 Go ahead, Tish please.

7 MS. DAVIS: No, it's a totally separate topic.

8 CHAIRMAN STAFFORD: All right. Yeah, I want  
9 to keep going on this.

10 One more question.

11 We've been involved in our office with FEMA, I  
12 guess, although it's always hard for me to figure out  
13 within FEMA how things are working in this exercise  
14 along the New Madrid Fault Line, I believe that runs  
15 through Missouri, Tennessee, Kentucky, and that area of  
16 the country.

17 And is OSHA involved in that? Because we've  
18 been having a kind of a hard time making traction. In  
19 other words, we've been asked to alert our building  
20 trades counsels in those states to participate in the  
21 exercise, if they're called on, and they in turn can  
22 contact our local unions for those folks that have had

1 our disaster response training as a part of that  
2 process, that would be prepared as a part of the  
3 exercise.

4 But we were never called on. And I was just  
5 wondering, from your perspective, what's happening with  
6 this exercise? And in the end, are we better prepared  
7 by it or not?

8 MS. GARRAHAN: I would have to get back to the  
9 group on that, in terms of I know that we get involved  
10 from a regional standpoint in a lot of national  
11 exercising, and local and regional exercising.

12 But if you're looking for, you know, specific  
13 areas, I really can't comment on it.

14 CHAIRMAN STAFFORD: Okay. Thanks, MaryAnn.  
15 That's my last question on that. Tish?

16 MS. DAVIS: Yeah. I'm excited to hear about  
17 your young worker initiative. We've been working on  
18 this issue for 15 years in Massachusetts. We have many  
19 successes, which I'll be happy to share with you.

20 I'd like to go on record that OSHA and NIOSH  
21 have in the past supported the National Young Worker  
22 Resource Center, and that's been a really important



1 resource for those of us in the field, working on this  
2 issue.

3 So I just want you to know that.

4 With respect to the initiative, one thing that  
5 would be a real coup is that in addition to working  
6 with your wage and hour is pulling in the workforce  
7 development people within the secretariat.

8 Because we've been successful in  
9 Massachusetts, and our workforce development system now  
10 requires Health & Safety training as part of the  
11 orientation for anyone in summer jobs programs.

12 And it's really identified and defined as one  
13 of the employability skills that anyone in either  
14 vocational education or workforce development has to  
15 have, that Health & Safety is part of the job.

16 So that would be a real coup if you could get  
17 a tri-partite initiative. And it's not always -- I  
18 mean, it took us several years developing those  
19 relationships.

20 But it's, I think, been very well received.  
21 We had a conference with 400 people on it last year, it  
22 was Health & Safety as an employability skill.

1           And NIOSH has developed a three-to-four-hour  
2     introductory talking safety curriculum for youth. And  
3     that's what's incorporated into our workforce  
4     development system.

5           MS. GARRAHAN:           Well, thank you. We heard of  
6     all the wonderful things in Massachusetts. And we are,  
7     you know, reaching out to, you know, various states in  
8     terms of what they have.

9           I'll mention one more thing, actually,  
10    speaking about Massachusetts. I know that it occurred  
11    there and in other areas. It is winter or it's getting  
12    close to being winter, and cold:

13          We are working on a hazard alert for  
14    maintenance workers who have been called upon to remove  
15    snow from roofs.

16          That was an issue last year and other years as  
17    well, and something we want to bring to the public's  
18    attention.

19          CHAIRMAN STAFFORD:           Thank you.

20          Any other questions or comments?

21          MaryAnn, just one last thing.           The videos are  
22    great. We were actually one of the outside

1 organizations that reviewed them for you, as they were  
2 developed.

3 I think there were 50,000 views, you said?

4 MS. GARRAHAN: Yes.

5 CHAIRMAN STAFFORD: Do you know the breakdown  
6 of which of the videos are being looked at? Can you  
7 break that out?

8 MS. GARRAHAN: We can break that down, if  
9 you'd like that. We can get that for you. I don't  
10 have it with me right here.

11 CHAIRMAN STAFFORD: Mm-hmm. It might be  
12 useful.

13 MS. GARRAHAN: Mm-hmm.

14 CHAIRMAN STAFFORD: Any other questions or  
15 comments?

16 MS. NIEBLAS: I just had one more comment for  
17 Ms. Davis.

18 Thank you again for bringing up the work  
19 groups. Because I think although I couldn't say for  
20 sure what the workers specifically their trade or their  
21 group was that was involved with this.

22 I think you kind of opened the door to making

1 sure that there is another population that still might  
2 be vulnerable to it, even if that's not directly been a  
3 case that I have seen.

4 I think they certainly might be, given people  
5 looking to either, you know, do this as quickly and  
6 cheaply as possible.

7 MS. DAVIS: Yeah. I mean, we disseminate, for  
8 example, ladder safety and scaffolding safety material  
9 through the work building permit offices in cities and  
10 towns.

11 MS. NIEBLAS: Oh, that's great.

12 MS. DAVIS: And actually in five languages,  
13 they're really well received. They call us when they  
14 run out, and we send more out. And they've actually  
15 did -- maintenance.

16 But I mean, there are these local, you know,  
17 avenues for getting information out to like --

18 MS. NIEBLAS: Thank you.

19 CHAIRMAN STAFFORD: Anything else?

20 Okay. Thank you very much. We greatly  
21 appreciate it.

22 MS. NIEBLAS: Thank you.

1 MS. SHORTALL: Mr. Chair, at this time, I'd  
2 like to enter into the record as Exhibit 19 the ACCSH  
3 Work Group Reorganization Handout;

4 And as Exhibit 20 DSTM Update Powerpoint  
5 presented by MaryAnn Garrahan from DTSEM.

6 And as 21, Worker Fatalities Using Methylene  
7 Chloride Paint Stripping Agents in Bathtub Refinishing  
8 Jobs, Powerpoint presented by Minda Nieblas, also from  
9 DTSEM.

10 MS. GARRAHAN: Okay. Thanks, Ms. Shortall.

11 Okay. Why don't we go ahead and -- are you  
12 guys ready for a break? Or do you want to move on?  
13 Ready for a break.

14 Why don't we take a 15-minute break?

15 (A brief recess was taken.)

16 CHAIRMAN STAFFORD: Bringing the meeting back  
17 to order please.

18 Mr. Withrow, welcome. You were next on the  
19 agenda. We moved things around, and I appreciate your  
20 flexibility, Jay.

21 We're now going to hear from the Virginia  
22 Occupational Safety & Health Program on their

1 regulation on backup operations.

2 So Mr. Withrow, please, the floor is yours.

3 MR. WITHROW: Thank you. I do have some  
4 handouts for folks. I tried to catch people in the  
5 audience. If you don't have one, I believe we're  
6 putting the rest of the copies in the back here.

7 And for the members of the Committee, we got  
8 the pretty folders. Just to let you know what's  
9 inside, on the left-hand side, there's some background  
10 information on fatality history in Virginia, with  
11 reverse signal alarms in both construction and general  
12 industry.

13 There is an interpretation, which I'll discuss  
14 using the presentation, regarding paving train  
15 operations.

16 There's a copy of the final briefing package  
17 for our regulation, when it went before our Safety &  
18 Health Codes Board, which is the regulatory body that  
19 adopts our regulations.

20 It has the best information on kind of the  
21 history of the regulation and how it progressed through  
22 the process, and changes that were made in response to

1 comments.

2 On the right-hand is a nice color copy of the  
3 Powerpoint copy of the regulation. And then the  
4 document on the first page is a copy of what appears on  
5 our -- we have a web page that deals with the  
6 regulation and all the outreach materials we had,  
7 interpretations, et cetera.

8 And then on the second page of that document  
9 is the news release that we sent out prior to the  
10 regulation going into effect, explaining our outreach  
11 effort first.

12 And then we kind of had a phased-enforcement  
13 approach, since it was something new for both  
14 industries, so it explained how we were going to do  
15 that as well.

16 My title is Director of the Division of Legal  
17 Support. As the title implies, I'm an attorney. I  
18 will fill dead air space. Or if you're ahead of  
19 schedule right now and you want to get out of here  
20 early, you shut me up, you know, when it's time to do  
21 that.

22 Otherwise, I'll just keep on talking.

1 MR. HERING: -- safety.

2 (Laughter.)

3 MR. WITHROW: Virginia and the State of  
4 Washington are two state plans that have regulations  
5 that address backup alarms, that are different than  
6 what's in federal OSHA.

7 I believe there are a couple of OSHA state  
8 plans that are looking at the issue as well. I'm  
9 pretty sure the State of Maryland is. They asked me  
10 for information on our regulation.

11 Washington's standard is construction only.  
12 Virginia's is in both construction and general  
13 industry.

14 I'll get on with the Powerpoint.

15 This is a quote from our rule-making process:

16 "What the Department wants to accomplish with the  
17 proposed regulation is to change current behaviors that  
18 cause these deaths and debilitating accidents.

19 "Without exception, every reverse signal  
20 operation fatality in Virginia" -- I'll qualify  
21 that -- "involves the driver either not knowing anyone  
22 is in the backup zone, and running them over, or losing



1 sight of someone he knows is in the backup zone, and  
2 proceeding anyway."

3 I've been with the Department for 27 years.

4 One of the things I do in my job is I do a legal review  
5 of all fatal accidents, before there's a decision to  
6 issue citations or not.

7 Of the 29 fatalities that are summarized in  
8 the package, going back to 1992, I reviewed every  
9 single one of those. I reviewed every single interview  
10 statement ever taken;

11 And it's just eerie to read the statements of  
12 drivers, because they say the same thing every time:  
13 Either "I never knew anybody was back there," or  
14 "Somebody was back there, I lost sight of them. I kept  
15 on going, and then I felt a bump."

16 I could give you numerous quotes like that.

17 Here's a fatal accident. I will go over a  
18 couple of very brief summaries.

19 This is what happened in Christiansburg. The  
20 victim was operating remote control for a rolling  
21 tamper, and it stepped into the path of the dump truck  
22 as it was going in reverse.

1           The driver did not know he was there at the  
2 time. The backup alarm was working; the employee just  
3 became, I guess, desensitized to the alarm, and was run  
4 over.

5           Our fatal accident history went back to 1992.  
6 We had an average of two fatal accidents in general  
7 industry and construction per year, which was four  
8 percent of all of our fatalities for that period.

9           You can see the distribution there.

10          As I said, in the work package, there is an  
11 actual description of each fatality, a brief narrative,  
12 a reference to the inspection number as well. If you  
13 ever want to check on, you know, what happened with the  
14 case, whether we issued citations or not.

15          And this was an accident in a general industry  
16 setting, with a sanitation worker actually the driver  
17 of the vehicle. They had multiple trucks pulling, one  
18 after the other, backing in to dump their loads;

19          The driver got out of the vehicle, and was run  
20 over by another driver.

21          These are the general industry fatalities.

22          Not as many as in construction. It was kind of a

1 two-thirds construction, one-third general industry.

2 In the three years leading up to our  
3 regulatory adoption process, I believe it was 2005,  
4 2006, 2007, and maybe even into 2008, which was in the  
5 middle of our process, we were averaging three fatal  
6 accidents a year, which was basically about six or  
7 seven percent of our fatalities.

8 So that was one of the reasons that we really  
9 looked closely at it. It seemed to be, instead of  
10 having one a year, maybe here or there, it was starting  
11 to increase: Two and then three.

12 Our process, while it does take a while to go  
13 through, is not as extensive as the process that OSHA  
14 has to go through.

15 We do not have provisions for negotiated  
16 rule-making, like OSHA has an official process like  
17 that. But on this regulation, we used to very good  
18 effect, a working group of interested parties.

19 And here's a list of the folks that  
20 participated. There were labor unions and employer  
21 associations, individual employers. And we had a  
22 representative from the Virginia Department of

1 Transportation on public sector workers.

2 We even at one point early in the process,  
3 because it was a new regulation, we had one of the  
4 members contact a member of the Virginia House of  
5 Delegates, a Republican member from Norfolk, who took  
6 an interest in it. And he actually came to the  
7 meetings.

8 And while he had a record of not particularly  
9 being enthusiastic about regulations, after he attended  
10 the meetings, we never heard any negative responses  
11 from him. We never had to deal with any issues in the  
12 General Assembly about trying to get rid of the  
13 regulations.

14 So it actually was a very positive experience  
15 all the way around. We had a group that really did  
16 care about things, raised lots of great issues.

17 When you read through the document of, you  
18 know, the history of the regulation, you'll see where  
19 we made changes in response to comments, and some very  
20 good comments.

21 A very basic summary of the regulation applies  
22 to general industry and construction vehicles,

1 machinery equipment capable of operating in reverse  
2 direction, that have an obstructed view to the rear;  
3 and whether they're intended for operation in off-road  
4 construction work or over-the-road transportation or  
5 hauling.

6 So we wanted to make it very clear, this was a  
7 comprehensive regulation.

8 We did have to define obstructed view to the  
9 rear. And our practice in Virginia, although 95, 98  
10 percent of our regulations are identical to federal  
11 OSHA's, we have about a dozen that are unique to  
12 Virginia.

13 Only about half of those would you call  
14 comprehensive.

15 We have one we've had for 20 years. We've had  
16 a confined space standard for construction. We have  
17 this regulation. We have a new tree-trimming  
18 regulation that's comprehensive.

19 We do try, whenever possible, to stick with  
20 terms that are familiar to the industry and to  
21 employees.

22 Wherever we can, we use, you know, stuff

1 that's based on OSHA regulations. The definition we  
2 use for obstructed view to the rear comes right out of  
3 an OSHA interpretation:

4 It's anything that interferes with the overall  
5 view of the operator of the vehicle, to the rear of the  
6 vehicle, at ground level.

7 Here are some examples of things that might  
8 interfere: Any part of the vehicle's structural  
9 members, loads, the height of the vehicle relative to  
10 the ground-level viewing.

11 One of the first questions we got during the  
12 regulatory adoption process was: Well, what about  
13 delivery vehicles? And the example given was: What if  
14 you know, I rent a truck from Lowes and put a  
15 refrigerator on the back of it?

16 And the interpretation is that while the  
17 initial pick-up truck without a load in the back of it  
18 is not going to be considered to be covered by the  
19 regulation, because you can look out the rear window,  
20 you can see ground level, while you could say there is  
21 a small blind spot back there, it's not going to be any  
22 different than a, you know, regular car;

1           But once you stick a refrigerator on it, and  
2           that's "the load," and it blocks view of the rear for  
3           the driver, then you've got an obstructed view.

4           Other examples:           Damage to windows or side  
5           mirrors used for the rear-view movement of the vehicle,  
6           restricted visibility to weather conditions.

7           In fact, since the regulation became effective  
8           in 2009 -- it's been in effect for about 2-1/2  
9           years -- we've had two fatalities instead of the normal  
10          four to five, or even based on the previous three years  
11          before the regulation came into effect that we were  
12          averaging three a year.

13          So.

14          So far, knock on wood, you know, we have seen  
15          a decrease, and the two fatalities have occurred in  
16          general industry, not construction.

17          So we haven't had anything in construction for  
18          2-1/2 years, which really had not happened for quite --

19          MR. JONES:           That was after the rule?

20          MR. WITHROW:        After the rule, yeah. That had  
21          not happened in a long time. But of the two, one of  
22          those did involve whether bad weather conditions -- and

1 I'll talk about that fatality later.

2 This is the heart of the regulation. And  
3 again, you will recognize the similarity of wording to  
4 the current OSHA standards, except we've added to it.

5 It does require vehicles that operate in  
6 reverse, with an obstructed view of the rear, that they  
7 have an audible reverse signal alarm, audible above  
8 surrounding sounds;

9 And -- and this is the addition -- that they  
10 need to have a designated observer or ground guide to  
11 signal that it's okay to back up; or before operating  
12 the vehicle, the driver or operator visually determines  
13 that no employees are in the path of the vehicle.

14 I'll explain how we worked our way to that, as  
15 we go along. Well, actually I might do it right now.

16 When we first started the regulation, we  
17 started out with a provision that required a backup or  
18 a ground guide in all situations.

19 And in working with the work group, they came  
20 up with, you know, a number of examples of you know,  
21 demonstrating the impracticality of that for certain  
22 kinds of operations.



1           And there was a great concern, which you know,  
2 I would have to say was confirmed by some of the fatal  
3 accidents we've had over the years of unnecessarily  
4 putting people out there to help back up vehicles, when  
5 you don't have to, and exposing them to being the ones  
6 that are run over.

7           And we have had some of the people over the  
8 previous years, the ground guys, be the ones that were  
9 run over.

10          So, you know, we wanted to look to give some  
11 flexibility on how to reduce the hazard.

12          The language on "visually determine that no  
13 employees are in the path of the vehicle" comes right  
14 out of a provision that's in the logging standard.

15          So, Like I said before, we try to look to  
16 language in OSHA regulations or interpretations, stuff  
17 that people are familiar with. And it's easier  
18 sometimes for the employer community, the regulating  
19 community to accept: Well, at least if the logging  
20 industry can do it, when we're placing a burden on  
21 other folks to do the same kind of thing, that they at  
22 least understand that a little bit better, to

1 understand where we're coming from.

2 As I said, we first started out with requiring  
3 ground guys at all times. Then we decided to go with  
4 the visually determine before you back up. And  
5 initially we'll put in visually determine from outside  
6 the vehicle to make sure, you know, walking all the way  
7 around the vehicle is the best way to determine  
8 nobody's back there.

9 But again, we had some great examples, which  
10 you can, you know, read in the background document,  
11 about certain kinds of operations that would have  
12 required, you know, the driver to get out of the  
13 vehicle 100 to 150 times a day on a construction site,  
14 you know;

15 And the impracticality of that, the length of  
16 time that would add to the operation.

17 Again, you're exposing the driver himself to  
18 possibly getting run over, when you allow him to do it.

19 The best way we explain it to employers to  
20 handle this kind of situation is to modify the behavior  
21 of the driver a little bit;

22 Try to eliminate, as much as possible, and

1 particularly -- and this is more in a general industry  
2 setting, perhaps, than construction -- but in general  
3 industry, which was not used to these kind of  
4 requirements, we've told people:

5       If you're making a delivery, pull it into a  
6 parking lot. You look at the area, there's nobody in  
7 the parking lot. Rather than pulling straight in,  
8 getting out, doing your delivery, getting back in your  
9 car and filling out your paperwork, as you pull in, if  
10 the parking lot's empty, that's when you do your  
11 reverse operation right then, when you know nobody's  
12 there.

13       And then you unload your stuff, get back in  
14 your vehicle, do your paperwork, and you pull straight  
15 out.

16       Thus the one of the two general industry  
17 fatalities was a beverage delivery vehicle. And it was  
18 very rainy, early in the morning. And he pulled into  
19 the parking lot, pulled straight in, unloaded his soft  
20 drinks, got back in.

21       And he said in his interview, you know, he had  
22 not noticed anybody in the parking lot when he got into

1 his vehicle. But he got into his vehicle, and he  
2 filled out his paperwork for two or three minutes.

3 And then backed up and ran over somebody, who  
4 was coming in on the early shift.

5 Here is an example of another fatality. This  
6 was in general industry. And we've had a number of  
7 these with tractor trailers. A combined issue of  
8 limiting access to the areas only to drivers, or if  
9 you're using the ground guides.

10 We've had several people walking through areas  
11 like this, where they're not supposed to be there, or  
12 they don't have reflective vests on. And they get  
13 lost, they get run over.

14 MR. RYAN: Excuse me, Jay.

15 MR. WITHROW: Yes, sir.

16 MR. RYAN: Have you looked into using some of  
17 the new mechanical or the sensing electronic devices?

18 MR. WITHROW: Yeah. One of the provisions in  
19 here allows kind of an exemption from part of the  
20 standard, if you have the video technology or motion  
21 sending equipment as a way to avoid having to use the  
22 ground guide in those situations.

1           In fact, it will be I think a slide or two  
2 after this.

3           This was an issue of particular this issue in  
4 general industry. There are covered vehicles that  
5 don't have or don't come with backup alarms.

6           And as a state and what's in language that's  
7 in the OSHA Act, we cannot require employers to  
8 retrofit vehicles, because it affects products that go  
9 into interstate commerce.

10           OSHA has that authority.           You know, an  
11 individual state can't require folks to instill backup  
12 alarms.

13           So we dealt with the issue by saying that, you  
14 know, if you didn't have a backup alarm, then you have  
15 to use the ground guide, or the option of visually  
16 determining.

17           However, if the manufacture does offer a  
18 backup alarm retrofit kit to the employer, and we can  
19 prove it, and it's at a reasonable cost, then that  
20 exemption doesn't apply, and we require them to do it.

21           And that language comes from another OSHA  
22 interpretation dealing with fork lifts, which talks

1 about retrofit packages on fork lifts for seat belts.

2 And if a manufacture offers it, OSHA would use  
3 the general duty clause to enforce getting that  
4 retrofit package installed.

5 This section deals with a situation where  
6 there is a backup alarm installed, but it's not  
7 working.

8 So they are required to, if it's not working  
9 and -- the examples we've had with the work group, it's  
10 a large construction site. The dump truck pulls on  
11 site. They notice the backup alarm is not working;

12 You know, first of all, we told them, "Don't  
13 let them on the site. That's a way for you to avoid  
14 any kind of liability, not only from OSHA in Virginia,  
15 but from anything associated with any accident that  
16 occurs later on, any liability from that."

17 But if while it's site, and the backup alarm  
18 goes bad, they are allowed to continue to operate it,  
19 you know, for that short period of time, as long as  
20 they use the ground guide;

21 And then they're supposed to remove it from  
22 service until they get it fixed.

1           Here's the issue of the video or similar  
2 technological capability. If the vehicle has that and  
3 they have a full view behind the vehicle, they are  
4 exempt from having to use the ground guide.

5           In talking with some OSHA staff, the  
6 Construction Directorate is looking at this issue as  
7 well, so I talked with them and provided them with lots  
8 of background information as well.

9           And they mentioned that not only the video  
10 technology, I guess there are products out there that  
11 install something on the vehicle, and then employees  
12 wear some sort of sensor on them, that when it gets  
13 within so much of the distance of the vehicle that has  
14 the monitor on it, that the personal alarms will go off  
15 for the person to tell them that they're too close.

16           Which I think is a great idea too.

17           We did have to add in, from a general industry  
18 standpoint that if there were any federal DOT  
19 regulations that might impact the issue, whether  
20 currently in effect or that might come into effect,  
21 that you know, DOT issues would preempt our regulation,  
22 if they decide to exercise that legal right.

1           Then we got into some I guess what we'd call  
2 behavior issues, trying to modify behavior not only of  
3 the drivers but of the ground guides and other  
4 employees that are working around vehicles that are  
5 backing up.

6           A lot of them have to do with distractions,  
7 very akin to the distracted driving stuff that's going  
8 on now.

9           But the first part is dealing with the people  
10 that are acting as the ground guides. When an employee  
11 is functioning as one, they're not allowed to be doing  
12 anything else, other than be the ground guy;

13           As part of their function, if they're  
14 collecting tickets, they can do that, and then they can  
15 give, you know, instructions to the drivers. But  
16 they're not supposed to be doing anything else:

17           Not engage in other activities, other than  
18 those related to what they're supposed to be doing;  
19 don't use personal cell phones, personal headphones,  
20 similar devices that might pose a distraction to the  
21 ground guide.

22           An important section is, you know, using



1 reflective vests, reflective clothing. We've had a  
2 number of fatal accidents where that was a contributing  
3 factor.

4 One issue that -- and I'll talk about this  
5 later too -- but one issue that would left out of the  
6 regulation, I wish we had put in, was to require the  
7 drivers to have them, as well.

8 Because current federal motor carrier safety  
9 regulations, even though they say in them that, you  
10 know, if you're a trailer truck driver, and you break  
11 down along the side of Interstate 95, you're supposed  
12 to put out all these warning devices behind the  
13 vehicle, which if you get off the vehicle and you're  
14 walking right along the edge of 95, the driver himself  
15 is not required to wear any kind of reflective  
16 material, you know, as an additional safety precaution;

17 Which I just think is a huge hole in their  
18 regulation.

19 And the added issue of a number of years ago,  
20 there was an OSHA Review Commission decision that came  
21 out that said that 1926.95 Personal Protective  
22 Equipment in Construction, and 1910.132 PPE in General

1 Industry, that reflective vests and reflective clothing  
2 are not considered personal protective equipment.

3 So OSHA has to use the General Duty clause to  
4 enforce.

5 I'm going to bring that up again at the end to  
6 suggest that that might be one that you guys want to  
7 look at too, from a regulatory standpoint.

8 And the ground guides are "not to cross behind  
9 the covered vehicle at close proximity to it, while it  
10 was operating in reverse. They are always to maintain  
11 visual contact with the driver of the covered vehicle  
12 while it is being operated in reverse, and then  
13 maintain a safe working distance from the covered  
14 vehicle."

15 Now this is the behavior for the driver. When  
16 using a ground guide, the driver shall not operate his  
17 vehicle unless he maintains constant visual contact  
18 with the ground guide.

19 And if he loses contact, the driver is to  
20 immediately stop the vehicle until visual contact is  
21 regained, and a positive indication is received from  
22 the ground guide that he can restart.

1           This is behavior for other workers in the work  
2 zone. And it's you know, a general provision that "all  
3 employees shall not enter or cross a path in close  
4 proximity to a covered vehicle while it's operating in  
5 reverse."

6           We have training provision very similar to  
7 language you'll see in OSHA training provisions that  
8 they will be trained on the requirements of the  
9 regulation, and that the refresher training be provided  
10 any time that an employee is being observed violating  
11 the regulation, any time they've been involved in an  
12 accident or a near-miss, or they received an  
13 evaluation -- you know, a personnel evaluation -- that  
14 reveals that they're not operating under the regulation  
15 in a safe manner.

16           I'm not going to go into this in great detail;  
17 but it's a reflection of, again, working with our work  
18 group. They brought up the issue of paving trains,  
19 where you might have five or ten or twenty dump trucks  
20 backing up, you know, 1500 feet at a time;

21           And you know, this was one of the examples of  
22 saying, "You don't want to have a required ground guide

1 for a 1500-foot backup on a very narrow construction  
2 site, when other vehicles are passing by."

3 And then also, you know, when we changed that  
4 to say, "Well, the driver had to get out of the vehicle  
5 to determine that nothing was there," well, you don't  
6 want the driver having to do that every, you know, 100  
7 or 200 feet, driving 1500 feet back.

8 So we did come up with some procedures that  
9 they could follow. Here's a picture of a paving drain.

10 These are a couple of the questions that came  
11 out. Basically what I've just said. What we came up  
12 with was that -- and this we worked closely with the  
13 Virginia Department of Transportation and their  
14 requirements for paving trains.

15 And you know, the area had to be prohibited,  
16 coned off employee's train, that that was a restricted  
17 work zone, that they're not allowed to enter the work  
18 area, the backup zone area;

19 And they said the nature of the process as you  
20 do it, there is no reason for employees to be doing  
21 that.

22 The drivers are required to remain in their

1 vehicles, once they're in the backing lane. They're  
2 not allowed to get out.

3 So again, we didn't want them becoming  
4 possible victims as well, whether it's from another  
5 driver -- dump truck, or whether it's people you know,  
6 driving by the construction work zones.

7 If an employee enters the paving lane or the  
8 prohibited area for any reason, all backup backing  
9 operations had to cease immediately until that person  
10 was removed from the area.

11 And then a ground guide would be used in the  
12 immediate vicinity, as they're coming to the paving  
13 machine.

14 The regulation became effective in September  
15 2009. We did an extensive outreach effort before it  
16 went into effect. And as I said earlier, we also had a  
17 phased enforcement approach.

18 One thing I would encourage -- and I know how  
19 difficult it is for OSHA -- but you know, when you have  
20 a new comprehensive regulation like this, and you go  
21 through years of adoption, having all of the outreach  
22 materials, and particularly the federal directives for

1 the COSHAs, the enforcement directives.

2 And if you're doing an emphasis inspection  
3 program, we have a local emphasis program for heavy  
4 equipment and for reverse signal arm operations, our  
5 inspectors are instructed any time they see, you know,  
6 heavy equipment operations, that they're supposed to  
7 stop and check on reverse signal arms.

8 That you have all that in place before you  
9 start your enforcement effort, instead of a situation  
10 like -- it's not intended as a direct criticism, but  
11 you know, the crane regulation that just came out, OSHA  
12 is still working on the directive for compliance  
13 officers and how long has that regulation already been  
14 in effect?

15 And that regulation took ten or fifteen years.

16 A very complicated regulation. I understand  
17 all that. Very difficult to get the documents  
18 prepared, to get them through the clearance process at  
19 OSHA, you know.

20 Let the stakeholders look at them. I  
21 understand all of that.

22 But I really strongly believe -- and Virginia

1 does -- that you know, you have to have to stuff lined  
2 up before you put it out to --

3 I think the regulations are just received  
4 better in that fashion. And it also gives you a little  
5 more time to deal with -- even when you spend years  
6 going through stuff, something always comes up that you  
7 missed, you didn't think about;

8 It gives you an opportunity to address that  
9 again, before the full force of the inspectors going  
10 out issuing citations comes down on folks.

11 We had a phased-in approach that basically  
12 gave an extra month or two for the employers to get  
13 used to the regulation and get their folks trained.

14 Employers were informed about the regulation.  
15 if they saw a situation that would be a violation of  
16 the regulation during that phased-in period, the  
17 employer was basically given a warning and said, you  
18 know, "Fix it."

19 And then if they refused, the inspector would  
20 issue citations. If they said, "Yes, we'll fix it,"  
21 then the inspector would verify that it was fixed  
22 before we moved on.

1           And that we gave them an extra 30 days to meet  
2 the training requirements.

3           These are the materials that we had.           You  
4 know, we had these out before the regulation went into  
5 effect, including, as I said, an enforcement directive.  
6 And we had a emphasis program for people to let them  
7 know that yeah, we're coming out and we're going to  
8 look at stuff.

9           A summary of our enforcement activity since  
10 September of 2009. We did 265 inspections that  
11 directly addressed reverse signal. And that I think  
12 amounted to -- let me find my statistics -- amounted to  
13 about six percent of all inspections during that time  
14 when citations were issued.

15           Yeah, 6.5 percent.           Of those inspections, 75  
16 percent were in construction, 25 percent were in  
17 general industry.

18           You can see how many violations we issued  
19 there. As I mentioned earlier, there were two fatal  
20 accidents:

21           One was the beverage delivery truck I  
22 mentioned. The other was a tractor trailer backed over



1 his co-driver, who was acting as the ground guide:

2 Once again, "He was back there. I saw him.

3 Then I didn't see him. Then I felt a bump."

4 The ground guide had not been trained in  
5 regulation, and was not wearing a reflective vest.

6 The most frequently cited provisions:

7 The first one there is for having no backup  
8 alarm working. Probably it was a mixture of they  
9 didn't have a backup alarm, or they had one and it  
10 wasn't working.

11 The second one there was for not using a  
12 ground guide when they were supposed to.

13 The third one directly addresses broken backup  
14 alarms.

15 And the fourth one, which was the most  
16 frequently cited, was the training provision.

17 I have a list here of things we would  
18 differently, if adopting the regulation now, and  
19 probably something we will go back and revisit, in  
20 looking to change the regulation.

21 We would add a definition of affected  
22 employees, kind of modeled after what OSHA has in you

1 know, the lock-out tag-out standard to address  
2 employees who are working around backing vehicles.

3 Not the driver -- we're not talking about the  
4 driver or the ground guide, but other people.

5 Early on, somehow I got fixated on using  
6 designated observer or ground guide in the regulation.  
7 I think one term would have been sufficient instead of  
8 having two. But maybe that was probably the lawyer in  
9 me. Let's make sure we cover everything.

10 And the third one is in Section 30A2b, which  
11 talks about visually determining. I just added the  
12 word, "immediately," because of the issue of the  
13 average distribution fatality.

14 You know, he got back into his vehicle and he  
15 sat there for a few minutes. And then he backed up.  
16 If you're going to do this visual determination, it has  
17 to be immediately before you start backing up.

18 We were still okay on the regulation. But I  
19 just think just make it as clear as we can.

20 Yes, sir? Okay.

21 Following on the definition of affected  
22 employees that we would add a new subsection that said

1 affected employees who are going to be working in  
2 backup zones have to wear reflective vests, clothing,  
3 et cetera.

4 Now we could still use now general duty to do  
5 that. But I think it makes the regulation more  
6 complete to go ahead and put this in there.

7 Also add a section to address the distracted  
8 issue, to issue distracted drivers as well.

9 So that's that section 40, add a new section  
10 for that.

11 We've actually had our first fatality in  
12 Virginia that I am aware of in my 27 years, where we  
13 had distracted operation. It was a logging site, where  
14 the operator of a logging vehicle was talking on his  
15 cell phone while he --

16 MR. JONES: To whom was he talking?

17 MR. WITHROW: We don't know. He had one of  
18 those big claw things, where you grab, you know, a  
19 70-foot piece of pine and you strip it through a barker  
20 and you swing it around.

21 Of course, you've got this huge radius. And  
22 there was a guy, actually the general contractor, a

1 forester, who had been on site, looking at which trees  
2 to cut down.

3 And he appeared to be well out of any danger  
4 zone. He was just standing on the edge of the woods,  
5 and the driver, while he was talking on his phone,  
6 swung the thing around and hit him with the end of the  
7 logs. So.

8 Obviously we think the drivers, when they're  
9 backing up, should be doing things like talking on cell  
10 phone as well.

11 And then add in the training provisions that  
12 affected the employees, you know, those folks working  
13 in backup zones, but not being the ground guide that  
14 they should be including in the training requirements.

15 And I'll be honest, when we were going through  
16 this, we were worried about the cost impact. And  
17 training obviously is a significant cost. We thought  
18 that the most important thing to focus on was behavior  
19 modification of the drivers and the ground guides.

20 You know, so we did try to limit the impact of  
21 the regulation first. But I think, you know, we will  
22 probably try and go back and make sure to expand this

1 training issue to again limit the hazard, as well.

2 And that -- if I can see what the time is  
3 here -- wow, I came in pretty close. That's good for  
4 me.

5 Any questions?

6 (Discussion held off record.)

7 CHAIRMAN STAFFORD: Thank you very much, Mr.  
8 Withrow. Any questions or comments?

9 MS. SHORTALL: How does the standard define  
10 "rear of the vehicle"? Is it anything that breaks the  
11 plane? Does it have to be within the confines of the  
12 width of the vehicle?

13 MR. WITHROW: We strictly use the definition  
14 that OSHA has for obstructive view of the rear, you  
15 know, in their interpretations. It does not go into  
16 that level of detail, as far as what the end of the  
17 vehicle constitutes.

18 It uses, I guess you'd say qualifying language  
19 that says, "At the rear of the vehicle, at ground  
20 level." And then in the examples, it gives as far as  
21 it talks about the height of the vehicle in relation to  
22 the ground.

1           So that obviously, you know, the big dump  
2           trucks that have 12-foot tires, they're pretty high,  
3           and the driver might even be able to see out of the  
4           rear of the vehicle.

5           But the sheer size of the vehicle creates such  
6           a high blind spot, that there is no ground level  
7           associated with that. You know, obviously they have an  
8           obstructed view to the rear, even in a situation like  
9           that, because of the sheer size of it.

10          MS. SHORTALL:           So does the standard cover  
11          persons who are technically behind the vehicle, but at  
12          an angle behind the vehicle?

13          MR. WITHROW:           No. It does just deal with  
14          those in the rear, and not outside, I would say, if you  
15          drew parallel lines, I guess along the sides of the  
16          vehicle.

17          Once they get outside of that, then, you know,  
18          they're not in the technical dangers.

19          And of course, once the vehicle starts to go  
20          one way, then that changes.

21          MS. SHORTALL:           The provisions on the cell  
22          phones?

1 MR. WITHROW: Mm-hmm.

2 MS. SHORTALL: Does that only go to personal  
3 phone calls? Or any call on a cell phone?

4 MR. WITHROW: No. We wouldn't want them  
5 talking, even if they're talking business on a walkie  
6 talkie to somebody else on the side. No, we want them  
7 doing that, while they're functioning as the ground  
8 guide.

9 CHAIRMAN STAFFORD: Walter?

10 MR. WITHROW: If they want to do that, then  
11 what we're supposed to do, we would say "Stop the  
12 vehicle, I got to talk to somebody."

13 CHAIRMAN STAFFORD: Dan?

14 MR. ZARLETTI: This is Dan Zarletti. In our  
15 business, we're working with a lot of this heavy  
16 equipment. And what we've gone to is a headset that's  
17 not only noise attenuation, but it provides a com line  
18 with another person with an RF signal.

19 So this is a complete hands-free thing, but  
20 there has to be some communication between the operator  
21 and the driver.

22 And in order to do that and not have their

1 hands involved in the activity, we use this comset,  
2 which has an attenuation level of I think 29 an hour.  
3 So it helps us in both regards.

4 MR. WITHROW: Yeah. Now if it was something  
5 like that, where they're actually in direct contact  
6 with the operator, and it actually enhances the safety  
7 of the person being the ground guide, then -- although  
8 yeah, they're talking to somebody -- if they're  
9 actually talking to the driver, we would say "You're  
10 not being distracted as being a ground guide. That's  
11 actually helping you to be a better ground guide."

12 So we would consider that to be permitted.

13 CHAIRMAN STAFFORD: Jay, I think I missed it.  
14 The pole in back and in your example of the beverage  
15 truck?

16 MR. WITHROW: Mm-hmm.

17 CHAIRMAN STAFFORD: Is that just a best  
18 practice? Or is that a part of the standard now?

19 MR. WITHROW: No, that's not in the regulation  
20 right now. We're just saying if you want to, you know,  
21 avoid problems with the regulation, this would be one  
22 easy way to do that.



1 CHAIRMAN STAFFORD: Okay.

2 MR. WITHROW: Just to change your behavior a  
3 little bit. And you know, give a little forethought to  
4 what's going on.

5 CHAIRMAN STAFFORD: Yes, Steve?

6 MR. HAWKINS: Jay, your regulation doesn't  
7 address backing signals at all. And that's something  
8 that we discussed at great length in our work group.

9 And did that come up? And how did that go?

10 MR. WITHROW: It never came up. When I talked  
11 to, I think, the Directorate of Construction folks,  
12 they asked about that. No, we have not found  
13 standardized signals.

14 You know, I'm aware that there are  
15 standardized signals for crane folks.

16 I'm not aware, you know, of industry consensus  
17 on that.

18 So now if there had been something easy for us  
19 to say, well this is widely recognized, then we would  
20 have put something in there. But we weren't aware of  
21 something at that time.

22 If something like that develops, then yes, I

1 would add that in as something that made perfect sense.  
2 You should have standardized signals.

3 MR. HAWKINS: I mean, you looked at this a  
4 lot. Do you think that's an issue that's really  
5 needed? Or --

6 MR. WITHROW: I can't say that it's ever come  
7 up in a fatality accident of ours as being, you know,  
8 some kind of a contributing factor.

9 MR. HAWKINS: Like the spotter said "Do this,"  
10 but the driver did this, and --

11 MR. WITHROW: Right. No, that has not come  
12 up. Like I said, whenever it's been a ground guide  
13 that was killed, it was the driver saw them, and then  
14 they didn't see them any more, and they just kept on  
15 going.

16 Which I don't understand that mentality,  
17 particularly.

18 But I certainly have seen in interviews over  
19 the years that some drivers that have backup alarms,  
20 once they put it in reverse, as long as they're not  
21 going to run into the building behind me, which they  
22 are concerned about, they think that the backup alarm

1 is sufficient warning;

2 And the burden is placed on anybody back there  
3 to get out of my way kind of thing.

4 And you know, we want to try to change that  
5 behavior some.

6 MR. JONES: Does your regulation address that  
7 if the ground guide is out of view, you are to stop?

8 MR. WITHROW: Yes.

9 MR. JONES: It does?

10 MR. WITHROW: Yes. Yes.

11 CHAIRMAN STAFFORD: Gary, do you have a  
12 question?

13 MR. BATYKEFER: Yes. Just a point of  
14 clarification. In your presentation, did you say that  
15 the driver is not required to wear any safety vests or?

16 MR. WITHROW: No, there is no current  
17 requirement in the -- I was talking about the federal  
18 motor carrier safety stuff.

19 MR. BATYKEFER: Okay.

20 MR. WITHROW: Like, you know, when you're  
21 driving on the highways and you're required to put out  
22 warning lights or flares. You know, and so many feet

1 behind the vehicle.

2 But all that great warning to the other  
3 vehicle drivers; but the drivers themselves are not  
4 required to put on vests.

5 Now probably we could address that through a  
6 general duty violation. But you know, I'd much prefer  
7 that it be in this regulation and also, you know, that  
8 this court decision should be reversed, and OSHA should  
9 change their regulation and say "reflective vests and  
10 reflective clothing are considered personal protective  
11 equipment."

12 MR. BATYKEFER: Well, I would agree, at that  
13 point, when they're not operating the vehicle, if  
14 they're not the driver, if they're out putting --

15 MR. WITHROW: They're exposed, just like  
16 everybody else in the same hazard --

17 (Simultaneous conversation.)

18 MR. BATYKEFER: And I would think they would  
19 be subjected to having that PPE when they're out of the  
20 cab of the truck.

21 MS. ARIOTO: Yes. On your section, where you  
22 say you settle on a term, instead of using designated

1 or guide, I noticed Steve used spotter.

2 MR. WITHROW: Spotter, right.

3 MS. ARIOTO: And that's like a term I've heard  
4 a lot in construction.

5 MR. WITHROW: Yes.

6 MS. ARIOTO: So I'm not sure if, you know, if  
7 this --

8 CHAIRMAN STAFFORD: Yeah.

9 MS. DAVIS: Did you, with respect to  
10 discussions about work zones, talk about internal  
11 traffic control plans? Was that part of the  
12 discussion?

13 MR. WITHROW: No. But thank you for bringing  
14 that up. That was one issue I wanted to take advantage  
15 of in my opportunity of being here.

16 It's not directly related to this, but the  
17 manual on uniform traffic devices that, you know, OSHA  
18 has incorporated by reference to the regulations, if  
19 you've ever looked at that document, there are legal  
20 decisions out there, that say: Any regulation OSHA  
21 adopts that uses non-mandatory language, like should or  
22 may, provisions that have that in it are no

1 enforceable. And that document is rife with those  
2 things.

3 That whole document, which goes on for more  
4 than 100 pages, the large, large majority of it is  
5 unenforceable.

6 And we've been trying to work with our  
7 Virginia Department of Transportation, because each  
8 state does their own version of that manual, to put in  
9 their manual a lot more "shalls," and take the  
10 "shoulds" out;

11 And then we're going to look into adopting the  
12 Virginia manual, instead of the national one. Because  
13 the national one, while they make improvements in it  
14 every year, I mean, it still just has a lot of  
15 recommendations in it.

16 And recommendations are not enforceable.

17 So I wanted to bring that to your attention.  
18 I don't know if you're aware of that, but it's a huge  
19 hole in that regulation.

20 CHAIRMAN STAFFORD: Chuck?

21 MR. STRIBLING: Jay, we talked a lot about in  
22 our work group discussion about employer traffic

1 control plans, as a means to potentially eliminate the  
2 hazard.

3 MR. WITHROW: Mm-hmm.

4 MR. STRIBLING: Was that addressed at all in  
5 the June's rule-making --

6 MR. WITHROW: No. At the time we were going  
7 through this, that's when we were going through the  
8 decisions with VDOT initially. They've made some  
9 changes, but they're still not where we need them to  
10 be, where we could adopt the thing by reference.

11 And so they're going through the process  
12 again, and we're going to work with them again on it.

13 That's how we actually ended up with our  
14 current tree-trimming regulation. Our tree-trimming  
15 regulation is based on the ANSI standard for that.

16 And they came overtime us back in like 2000  
17 and said, "We'd like to actually be regulated, and we  
18 wan the ANSI standard to be it."

19 And we looked at it and said, "It's got way to  
20 much 'should' language in it. If you can make  
21 modifications to that, we'll consider it."

22 They did it in 2003, and it got better. And

1 in 2006, it got to the point where we said, "Yeah, we  
2 can work with you." And we took a couple of years and  
3 we adopted that as our regulation.

4 And they're very pleased and we're very  
5 pleased, because tree trimmers are killed more  
6 frequently than backup alarm people are.

7 But that one's only been in effect this year.  
8 But since it's come into effect, we haven't had a tree  
9 trimmer killed, which is nice. So.

10 Yes, sir?

11 MR. ANDERSON: In your regs -- I'm kind of  
12 reading through this, and I'm not familiar with them at  
13 all -- but what is the employer's responsibility in the  
14 overall regulation? Is it to make sure you have a  
15 reverse signal alarm? And that either the driver gets  
16 out? You have a reverse signal alarm, and then the  
17 driver gets out of the vehicle and looks before he  
18 backs up? Or the covered vehicle --

19 MR. WITHROW: Or you use a ground guides --

20 MR. ANDERSON: As the designated backup --

21 MR. WITHROW: Yeah, we don't require them to  
22 get out of the vehicle. It might be how they would



1 visually determine. We're leaving that to be flexible.

2 Like I said, we came across instances where it  
3 either didn't make sense to have them get out of the  
4 vehicle, or it might have just increased the hazard; it  
5 put one more person into you know, danger of getting  
6 hit themselves.

7 But they have to make a visual determination.  
8 And like I said, that language came from a requirement  
9 that's in the logging standard currently.

10 But from an employer's standpoint, if you have  
11 a vehicle, you know, that meets the definition of the  
12 regulation, then you got to train the driver, and you  
13 got to train any ground guides you use in the  
14 regulation.

15 And then you should train at least your other  
16 employees to say if there's a back-up zone, stay out of  
17 it.

18 MR. ANDERSON: So if their employer meets some  
19 training obligations, and there's an accident, do you  
20 get a lot of employee misconduct issues?

21 MR. WITHROW: Yes. I mean, not particularly  
22 in this area, but we've certainly had fatal accidents

1 over the years, where an employer, you know, met the  
2 training requirements, they had a good disciplinary  
3 program, they met all the elements of the employee  
4 misconduct defense, and we end up not issuing a  
5 citation.

6 That is a legitimate defense to any OSHA  
7 regulation.

8 MR. ANDERSON: Well, so and just one followup.  
9 On the violations that you normally have, what is it  
10 that you know, the employer didn't do the training or  
11 the --

12 MR. WITHROW: Yeah. As you would kind of  
13 expect with the new regulation, the training one was  
14 cited most frequently.

15 The second most frequent was, you know, either  
16 a backup alarm is not working, or they're not having a  
17 backup alarm when they were supposed to.

18 Yes?

19 MS. SHORTALL: I have a couple more questions.  
20 This refers to Section 40 about -- and reverse signal  
21 operation activities.

22 MR. WITHROW: Mm-hmm.

1 MS. SHORTALL: In that section, it talks about  
2 employees who are ground observer guides, are to be  
3 provided with a safety vest or jacket.

4 Anywhere does this answer who is responsible  
5 for paying for that?

6 MR. WITHROW: We did not address that  
7 directly. OSHA, of course, has their standard and  
8 interpretations about which PPE is paid for and which  
9 is not. And --

10 MS. SHORTALL: But maybe I misunderstood.  
11 Were you saying that the reflective vests do not come  
12 within the PPE standards?

13 MR. WITHROW: Yes. There is an OSHA Review  
14 Commission decision that says 1926-95, which is  
15 construction PPE, and 1910-132, which is general  
16 industry PPE.

17 You know, they list various kinds of personal  
18 protective equipment. And the Review Commission said  
19 that that reflective clothing is not personal  
20 protective equipment.

21 Now OSHA has issued some interpretations that  
22 say you can still site employers for not having

1 reflective clothing or vests under the general duty  
2 clause.

3 So it's not that they're not required, but  
4 it's how they're required.

5 MS. SHORTALL: I'm not talking about -- cost  
6 issue, who pays it.

7 MR. WITHROW: Right.

8 MS. SHORTALL: So you're saying you can use  
9 the general duty clause for employer's failure to pay?  
10 Or because it's silent, you can't cite the employer  
11 for --

12 MR. WITHROW: You know, I haven't looked at  
13 those interpretations in OSHA's regulations. I'd  
14 probably have to get back to you on that.

15 MS. SHORTALL: Okay.

16 MR. WITHROW: But that's something we can  
17 provide an answer on.

18 MS. SHORTALL: Okay. I guess this is a, you  
19 know, a lawyer technical point.

20 MR. WITHROW: I understand.

21 MS. SHORTALL: In A(2) of that same section,  
22 it says that the observer ground guide shall not use

1 personal cellular phones. Does that mean that they  
2 would be permitted to use employer-provided or business  
3 cellular phones?

4 MR. WITHROW: Well, as I said, it would depend  
5 on what they're using it for. If they're talking to  
6 the operator, then that's fine.

7 But even if they're using a business phone,  
8 I'd say under 40(a)1, you're engaging in activity that  
9 distracts you, and so you're not supposed to be using  
10 that phone, while you're doing the backup.

11 MS. SHORTALL: Okay. So --

12 MR. WITHROW: You shouldn't be talking to  
13 somebody other than the driver at that point.

14 MS. SHORTALL: Okay. The reason I bring it  
15 up -- and I can't remember who said it yesterday -- but  
16 someone was observing that a person had been using a  
17 cellular phone throughout a work shift. And it turned  
18 out almost half the calls were from the supervisor, or  
19 whatever.

20 So it was like no matter who the call comes  
21 from, it was still a distraction.

22 MR. WITHROW: Yeah.

1 MS. SHORTALL: Okay.

2 MR. WITHROW: Yeah, we would say that that  
3 would fall under that A(1) provision. They're still  
4 being distracted; even if it's work-related, they're  
5 being distracted.

6 MS. SHORTALL: Okay. Thank you.

7 MR. WITHROW: And again, the kind of easy  
8 solution there is if the guy just stops the driver for  
9 a second, talks, then stops talking, and then says,  
10 "Come on."

11 CHAIRMAN STAFFORD: Any other questions or  
12 comments?

13 MR. STRIBLING: Mr. Chairman, I just want to  
14 go on the record. Steve and I sort of ganged up on Jay  
15 at our last ACCSH meeting and twisted his arm to come  
16 here and present today;

17 Because we knew he was thoroughly versed in  
18 this, and we had a chance to hear him address this  
19 issue before, and we thought it would be pretty  
20 valuable for the Committee.

21 So I just want to go on the record to express  
22 my gratitude for him being with us today.

1 MR. HAWKINS: Yes.

2 CHAIRMAN STAFFORD: Yes.

3 MR. WITHROW: Mine as well.

4 CHAIRMAN STAFFORD: Yeah, thank, Jay, very  
5 much.

6 MR. WITHROW: It's my pleasure, very much,  
7 thank you.

8 CHAIRMAN STAFFORD: The effort's especially if  
9 you're going to be driving back down to Richmond on 95  
10 on a Friday afternoon.

11 (Laughter.)

12 MR. WITHROW: I appreciate that --

13 COMMITTEE MEMBER: Turn off your phone.

14 MR. WITHROW: Thank you.

15 MS. SHORTALL: Mr. Chair, at this time, I'd  
16 like to enter into the record as Exhibit 22, Reverse  
17 Signal Operation Safety Requirements for Vehicles,  
18 Machinery, and Equipment in General Industry, and the  
19 Construction Industry Powerpoint presented by Jay  
20 Withrow, Virginia OSHA Division of Legal Support.

21 As 22(a), same title of the code, which is 16  
22 Virginia Code 27-97-10, at sequence;

1           As 22(b), the Virginia Safety and Health  
2 Codes, Board Briefing Package of 11-20-2008;

3           As 22(c) the 917-09 Interpretation Concerning  
4 Asphalt Paving and Milling Operations;

5           As Exhibit 22(d), Reverse Operation Fatalities  
6 in Virginia as of 9-30-2007;

7           As 22(e), Virginia OSHA Reverse Signal  
8 Operation Webpage Mockup;

9           And as Exhibit (f), the biography of J.  
10 Withrow.

11           CHAIRMAN STAFFORD:           Okay. Thank you,  
12 Ms. Shortall.

13           Paul, I appreciate you being here, and you're  
14 welcome to sit at the table, obviously. But we're  
15 going to go ahead and continue.

16           And I think it's appropriate while we're on  
17 the subject, to have the Backing Operations Work Group  
18 Report. And then we'll get into the SIPs discussion.

19           So with that, I'll turn it over to Steve and  
20 Chuck, however you two are handling your report out.

21           MR. HAWKINS:           I'll give the report, Mr.  
22 Chairman.



1           We did have our Backing Operations Work Group  
2 Meeting. It went very well. We'd like to complement  
3 the DOC staff, Paul, Megan, and Michael, for being very  
4 well prepared with information to help direct the  
5 group.

6           Just unusually so.           I mean, they were very  
7 well prepared, and had information that was very  
8 pertinent that they kind of kicked off the meeting  
9 with, and I just want to thank them for that, and  
10 recognize their efforts there.

11           And I hope that our work group can help  
12 complement what they're doing.

13           It's not really at the appropriate time, but I  
14 would ask the Chairman to consider continuing our work  
15 group, because we are working on some issues at the  
16 request of OSHA to gather some information.

17           So we might want to temporarily suspend our  
18 work group. But we would like to probably meet at  
19 least one more time, to deliver some information that  
20 we're gathering for DOC.

21           Our meeting began at 10:22 with  
22 self-introductions. I presented and reviewed the work

1 group meetings minutes from the last work group  
2 meeting.

3 Mr. Maddux, Director of DOC, addressed the  
4 group. He advised that OSHA is looking for the  
5 direction on the backing operations web page -- not  
6 just the standard, but the web page also.

7 Mr. Bolon regarding the research performed by  
8 Mrs. Smith, regarding hand signals, OSHA's request for  
9 information, and to work on the OSHA backing web page.

10 And so you know, one of the things that we  
11 would be working on is to try to gather information  
12 from our various contacts and constituents, about  
13 whether or not employers have standardized hand  
14 signals, and how they communicate those, what those  
15 signals are, so that we can report back to OSHA at our  
16 next opportunity.

17 So that is one of the primary things that  
18 we'll be working on.

19 Mr. Stribling advised that the UPS planned  
20 presentation to the work group was not going to happen,  
21 because, as Mr. Stribling pointed out, this happens to  
22 be a very, very busy time for United Parcel Service,

1 and so they weren't able to come.

2 They are still willing to come, and Chuck's  
3 going to request that they come to a future meeting.

4 Mr. Stribling gave information to the group  
5 regarding Washington State's rule for dump truck  
6 backing. He also advised the group that Mr. Withrow  
7 from Virginia would be making a full presentation to  
8 the full ACCSH, which we just heard.

9 There was considerable discussion regarding  
10 the possible content of a backing operations web page.  
11 The worker felt there should be a distinction between  
12 backing operations in general industry and backing  
13 operations in construction.

14 Work group members expressed the view that  
15 OSHA should ensure that the universe of measures of  
16 protection to prevent backing injuries and fatalities  
17 are identified for possible inclusion on OSHA's backing  
18 operation page.

19 Measures the group identified were -- and I'll  
20 try to go through these quickly:

21 Spotters' reverse-control button that the  
22 spotter, as you saw, where he can stop the truck, or

1 the piece of equipment; hand signals, of course;  
2 vehicle cameras; proximity detectors, both radar and  
3 sonar;

4 Internal traffic control plans;  
5 pedestrian-free zones; a tag system; an RFID system,  
6 where the driver can see through an electronic system  
7 where employees might be. And that's all employees,  
8 not just the spotter;

9 Strobe lights; driver training;  
10 worker-nondriver training; blind-spot diagrams; reverse  
11 control by the spotter of the vehicle; high-visibility  
12 clothing, proper lighting of the work site; convex  
13 mirrors; the elimination of distracted driving.

14 And I would like to add, although it's not in  
15 our written report, elimination of the distraction for  
16 the spotter as well, after Jay's presentation;

17 Different alarm signals that might be used, as  
18 opposed to the standard one that we're familiar with.  
19 Apparently, we had a pretty good discussion about some  
20 jurisdictions having noise limitations, and I  
21 understand that there are back-up signs that are sounds  
22 that are not what we're mostly accustomed to, that are

1 available;

2 Alarm sounds wired into the hard hat; mirrors  
3 for hard hats. And we didn't discuss -- we put them  
4 all on the list. Okay?

5 CHAIRMAN STAFFORD: Mm-hmm.

6 MR. HAWKINS: Undamaged and clean windshields,  
7 and cab glass. Also have ground employees get in  
8 vehicles, so they can what the blind spots actually  
9 are, and they can see what the driver sees.

10 That was actually a pretty interesting comment  
11 that came from the public attendees of the group, is if  
12 they do an equipment roundup, and part of that roundup  
13 is they let all the employees get in the cab of the  
14 different pieces of equipment, and look around and see  
15 what the driver sees.

16 And that does give you a good idea of where  
17 not to stand, and not to be.

18 It was the consensus of the work group that  
19 additional data on injuries and fatalities associated  
20 with backing operations needs to be gathered.

21 Additional sources of information included the  
22 CFOI data, NIOSH data, DOT data, and data that may be

1 available from insurance companies or workers comp.

2       There was considerable discussion regarding  
3 the backing operations scope and title. Possible  
4 titles were: Off-road runovers and backovers,  
5 obstructive view hazards associated with moving  
6 equipment and vehicles; obstructed views; blind-spot  
7 hazards; and hazards to pedestrians and workers on the  
8 ground, associated with off-road movement of equipment  
9 and vehicles.

10       Work group members discussed examining  
11 standardized hand signals that other agencies or  
12 organizations such as the FAA, the FRA, other states,  
13 and also looking at the crane standard might use.

14       Next steps, steps for the next meeting.  
15 Invite Dave Fosbroke from NIOSH to speak to the next  
16 work group meeting about this issue; show OSHA-backing  
17 operations video to the next work group meeting. That  
18 we solved today. I guess we solved one of those.

19       Invite equipment manufacturers to speak, work  
20 group members -- and this is one of the most important  
21 items we thought that came out of our work group -- is  
22 work group members will gather information on the use

1 of hand signals in construction, utilizing a standard  
2 questionnaire -- this would be really a suggested  
3 questionnaire -- form that the co-chairs, Chuck and I,  
4 will send to the members -- we'll actually send it to  
5 DOC, who will distribute it to everyone who was at the  
6 meeting;

7 And we will standardize the set of questions,  
8 so that they can ask. And when we report back, we'll  
9 all have similar answers on what are employers doing  
10 with standardized hand signals? Do they have  
11 standardized hand signals? What are they? So that we  
12 can discuss this issue more fully at our next meeting.

13 Work group members will explore how other  
14 standards address hand signals, as well.

15 And then we have three recommendations from  
16 our work group for ACCSH to consider: The first one  
17 being ACCSH recommends -- and I'll go ahead and make  
18 these as motions, so we can take them one at a time, if  
19 that's okay --

20 The work group recommends to ACCSH that ACCSH  
21 recommend to OSHA to enlarge the scope of the backing  
22 operations web page under development, to address

1 operating equipment with obstructive view in any  
2 direction of travel.

3 And I know that does murk the water a little  
4 bit, but there are some runovers, where there are  
5 actually moving in a forward direction, or some of the  
6 equipment that you know, is rotating, like a dozer,  
7 where the person's not aware of a person in a blind  
8 zone, just for their consideration.

9 The work group would recommend to ACCSH, that  
10 ACCSH recommend to OSHA that they develop a separate  
11 web page for backing operations in construction, to  
12 differentiate between backing operations and  
13 construction in general industry.

14 In other words, we would like for the  
15 recommendation to OSHA is that as soon as you go to the  
16 backing web page, you have two separate paths to  
17 travel:

18 One for construction, and one for industry;  
19 because the settings are so different and the equipment  
20 is so different.

21 And I guess that's an extra long motion. So  
22 I'll --



1 CHAIRMAN STAFFORD: Let Sarah wordsmith that.

2 MR. HAWKINS: Since Gary said she could read  
3 minds so well, could you read my mind on that,  
4 necessarily, to make a better motion?

5 And then the last one is the work group  
6 recommends to ACCSH to recommend to OSHA the backing  
7 operations web page under development -- controls  
8 following the recognized hierarchy of controls, that  
9 being you know, engineer the hazard out first, and then  
10 go to administrative, and then finally to personal  
11 protective equipment.

12 MR. HERING: I'll second it.

13 MS. SHORTALL: You do them all as one motion?

14 (Simultaneous conversation.)

15 MS. SHORTALL: Okay --

16 MR. HAWKINS: If you think we can. They're  
17 all pretty simple.

18 MS. SHORTALL: Sure, I just wanted to  
19 understand if that's what you're doing. Okay.

20 CHAIRMAN STAFFORD: All right. So I guess the  
21 first order of business is to have a motion and approve  
22 the report first.

1 MS. SHORTALL: Well, actually his motion is  
2 technically on the table now. So.

3 CHAIRMAN STAFFORD: Okay.

4 MR. HAWKINS: Mr. Chairman, could I withdraw  
5 my motion, until these minutes are approved?

6 MS. SHORTALL: It doesn't make any difference.  
7 You can do it either way. You know, if you wanted your  
8 motions first and then approve your work group --

9 CHAIRMAN STAFFORD: So let's go with -- the  
10 motions are there. So we have the motions we're  
11 putting into one.

12 Do we have a second?

13 MS. SHORTALL: Mm-hmm.

14 MR. HERING: Yes.

15 CHAIRMAN STAFFORD: Okay. Thanks, Bill.

16 Any discussion?

17 (No response.)

18 CHAIRMAN STAFFORD: No discussion? All those  
19 in favor signify by saying "Aye."

20 (Chorus of ayes.)

21 CHAIRMAN STAFFORD: Opposed?

22 (No response.)

1 CHAIRMAN STAFFORD: Okay.

2 Now separately, we will need a motion to  
3 approve the work group report.

4 MS. DAVIS: I move.

5 CHAIRMAN STAFFORD: All right, Tish made the  
6 motion. Gary seconded the motion. Any discussion?

7 (No response.)

8 MS. SHORTALL: Great. All those in favor,  
9 signify by saying "aye."

10 (Chorus of ayes.)

11 CHAIRMAN STAFFORD: Opposed?

12 (No response.)

13 CHAIRMAN STAFFORD: Thank you.

14 MS. SHORTALL: Mr. Hawkins, did you mean a  
15 Recommendation No. 2, that ACCSH was recommending OSHA  
16 develop separate divisions of the backing operations  
17 web page to differentiate between backing operations  
18 construction and backing operations in general  
19 industry?

20 CHAIRMAN STAFFORD: I don't think that  
21 division is the right word.

22 MS. SHORTALL: Okay.

1           CHAIRMAN STAFFORD:           I think what they mean is  
2           once you go on the home page, you want two separate  
3           tracks immediately --

4           MS. SHORTALL:           Okay.

5           CHAIRMAN STAFFORD:           One that takes you to  
6           general industry, and the other takes you to  
7           construction.

8           MS. SHORTALL:           Separate tracks. Okay.  
9           On the backing operations web page?

10          MR. HAWKINS:           Yes, ma'am.

11          CHAIRMAN STAFFORD:           Okay.

12          Okay, thanks Steve.           Thanks, Chuck.

13          Sarah, okay to move on?

14          MS. SHORTALL:           Hmm, I would just like to enter  
15          into the record as Exhibit 23 the approved backing  
16          operations work group report from the December 13, '11  
17          meeting.

18          CHAIRMAN STAFFORD:           Okay. Thank you.

19          Okay, Paul?           I'm sorry.

20          MS. SHORTALL:           I'm not sure this went around.  
21          Did people get their copies?

22          CHAIRMAN STAFFORD:           Everyone get the work

1 group -- everyone's got it, yeah. I guess these were  
2 just extra copies. I think Tish did not get one.

3 (Discussion held off record.)

4 CHAIRMAN STAFFORD: Okay, Paul. And I assume  
5 your colleague, Dayton? Is that right? Okay, Paul.

6 Paul, next on the agenda is talk about the  
7 SIPS IV discussion that you talked a little bit about  
8 yesterday.

9 Paul, during this discussion, one of the  
10 things that we put on the table at the end of this  
11 meeting is we talk about administrative issues as the  
12 possibility of whether we need a separate ACCSH SIPS  
13 work group.

14 And I would imagine, even if we decided we  
15 did, it would be a very short-lived work group. And so  
16 it would be great for you to help us with that  
17 discussion, on your opinion on whether or not we devote  
18 a work group to SIPS, or you don't think it's  
19 worthwhile, or the timing is such a brief time, that  
20 you don't think that would be appropriate?

21 MR. BOLON: Okay. Let's take that at the end.  
22 At the end, we can --

1           CHAIRMAN STAFFORD:           Okay.

2           MR. BOLON:           I want to introduce the SIPs  
3 process to ACCSH.   SIPs stands for Standard Improvement  
4 Project.

5           This will actually be the fourth SIPs  
6 rule-making that the agency has done, although we  
7 actually did a few before this that we didn't even call  
8 SIPs.

9           And the staff person that's working on SIPs is  
10 Dayton Eckerson, who's sitting beside me.

11          Oh, I want to read a short paragraph that's in  
12 all of the SIPs federal register notice, that explains  
13 what it is.

14          "OSHA wants to improve confusing, outdated,  
15 duplicative, or inconsistent requirements in its  
16 standards. Improving OSHA's standards will help  
17 employers better understand their obligations, which  
18 will lead to increased compliance, insure greater  
19 safety and health for employees, and reduce compliance  
20 costs.

21          "In addition, this action will allow OSHA to  
22 recognize newer and more flexible ways of achieving the

1 intent of the standards."

2 So that explains what SIPs is. And on the  
3 other hand, there is something that SIPs is not. And  
4 what it is not is most of, in fact all of our Safety &  
5 Health rules identify hazards and risk, which we also  
6 refer to as having significant risk. And the standards  
7 reduce that risk.

8 And SIPs so far has not done that. So it's a  
9 different kind of rule-making than normal.

10 And also since we don't address risk, we  
11 usually don't have new costs that we're imposing on  
12 employers. So we don't have issues of technological  
13 feasibility or economic feasibility, because there  
14 aren't new costs, or usually there aren't new burdens.

15 But I also want to emphasize that all SIPs are  
16 done without reducing employee protections.

17 So it's made to improve our standards, reduce  
18 some obligations where they're no longer necessary, and  
19 just make the standards work better.

20 I think this is the first SIPs that is really  
21 going to focus -- I don't know if we'll be completely  
22 exclusively on construction, but the intent is that it

1 really focus on construction and deal with construction  
2 standards.

3 In the SIPs process, I think we've always done  
4 a request for information first. That's a federal  
5 register notice, where we ask the public and the  
6 affected industries and unions for their ideas, or  
7 candidates that might be part of the SIPs rule-making.

8 And we plan to do an RFI for this SIPs, as  
9 well.

10 So how do we choose SIPs? If you look at your  
11 handout?

12 CHAIRMAN STAFFORD: Do we have that? Does  
13 everyone have the handout?

14 MR. BOLON: It just came around.

15 CHAIRMAN STAFFORD: Oh, okay, sorry.

16 MR. RYAN: But we didn't have enough of them.

17 MR. BOLON: Oh.

18 (Discussion held off record.)

19 COMMITTEE MEMBER: We need more.

20 (Discussion held off record.)

21 MR. BOLON: So if you look at the handouts.

22 I'm just going to go through the bullet-points. I



1 won't go through all the examples.

2 The SIPs revisions are intended to main  
3 employee protections while providing more alternatives,  
4 and therefore more flexibility for compliance;

5 The second one is eliminate unnecessary  
6 paperwork;

7 Third is eliminate employer duties that are no  
8 longer determined to be necessary;

9 Rewrite language to make employer  
10 responsibilities clearer;

11 Resolve inconsistencies between OSHA standards  
12 and eliminate duplication;

13 If there is new technology or a new effective  
14 measure, it's to permit that technology to be used, so  
15 it doesn't inhibit change;

16 And then sometimes we also -- well, we can  
17 eliminate obsolete or antiquated standards;

18 We can clarify language and grammar, and  
19 correct minor typographical errors.

20 So that's what we look at, when we're looking  
21 for SIPs candidates. Most of the things fall under one  
22 and often more of those bullet-points, those criteria.

1           And then on the second page, these are just  
2           some of the ideas that have percolated up through  
3           the -- we haven't asked the states yet, but just  
4           through federal OSHA, and through the Directorate of  
5           Construction.

6           So the first one is Subpart G, it just  
7           clarifies references and updates the references on the  
8           manual and uniform traffic control devices. That's  
9           really an update.

10          The second one is from Subpart M, fall  
11          protection. We have requirements for written  
12          certification for training, and we've been dropping  
13          those in earlier SIPs projects.

14          If you drop down to Subpart S, the one at the  
15          bottom, I know in the presentation that was done on  
16          tunneling, we talked about the decompression tables and  
17          hyperbaric charts.

18          That fortunately falls under something that  
19          could be handled through SIPs, because it replaces  
20          something that's outdated and obsolete, and provides a  
21          new way to do things that actually the industry is  
22          already using.

1           So in that particular case, SIPs is a fairly  
2 quick way to get new safer tables in place.

3           And I'll just go back to one that's actually  
4 on one of the bullets. This comes up sometimes their  
5 advances in technology, and the way our standards are  
6 written kind of block it.

7           I know this came up in one provision in  
8 blood-borne, where it talked about specified drying  
9 equipment. And you had to use hot air drying  
10 equipment;

11           And it turns out there is new technology;  
12 those high-velocity air driers are just as effective.  
13 So We were able to change through SIPs, without going  
14 through a very lengthy rule-making on what would have  
15 been a very small thing.

16           Do you have a question?

17           CHAIRMAN STAFFORD:           No --

18           MR. BOLON:           Just in terms of where we are,  
19 Dayton is -- we already have a draft RFI, and it should  
20 go into clearance, if not this month, in January.

21           So.

22           CHAIRMAN STAFFORD:           So the purpose of that RFI

1 essentially is to get industry feedback on which one of  
2 these standards should be included in the process?

3 MR. BOLON: Well, and it's to invite more  
4 ideas and more suggestions --

5 CHAIRMAN STAFFORD: Right. In addition to  
6 these --

7 MR. BOLON: Oh, yeah, much more in addition. I  
8 mean, we have a much longer list. But these were just,  
9 these were some we pulled out as examples.

10 CHAIRMAN STAFFORD: Mm-hmm. So it sounds like  
11 to me, Paul, if this -- I'm I don't know what the  
12 process is with an RFI, but once it goes from here over  
13 to OMB, how long they have to approve that and turn  
14 that around back to you.

15 But it's --

16 MR. BOLON: Well, these are viewed as  
17 deregulatory, because they're not new costs, there's  
18 not new impacts.

19 CHAIRMAN STAFFORD: Mm-hmm.

20 MR. BOLON: In theory, they turn around in ten  
21 days.

22 Just looking out at the schedule, I think

1 there's a 90-day comment period?

2 CHAIRMAN STAFFORD: Once it goes. And once  
3 it's published in the federal register.

4 MR. BOLON: Yeah. So that will roughly  
5 overlap if there's an April meeting of ACCSH.

6 CHAIRMAN STAFFORD: Mm-hmm.

7 MR. BOLON: And it may be possible that we  
8 would have a proposal by fall, if there's a fall  
9 meeting.

10 CHAIRMAN STAFFORD: Mm-hmm.

11 MR. BOLON: And then that would be something  
12 that we would present to ACCSH for your review, your  
13 recommendations.

14 CHAIRMAN STAFFORD: So it sounds like based on  
15 that, then maybe it doesn't seem like, with all the  
16 other priorities that maybe there's a separate SIPs  
17 ACCSH work group is needed right now. Maybe we could  
18 deal with this once you get your information back at  
19 the fall meeting, as a full committee.

20 MR. BOLON: Yeah. I think that's right. I  
21 mean, if there's a fall meeting, and we have a package  
22 for you, then you would consider it.

1 CHAIRMAN STAFFORD: Mm-hmm.

2 MR. BOLON: It would be a one-time thing. It  
3 certainly wouldn't be an ongoing work group.

4 CHAIRMAN STAFFORD: Right. Okay. I think  
5 that sounds right. Go ahead, Chuck. I'm sorry.

6 MR. STRIBLING: I got a question. Hearing  
7 your comments about the decompression tables being good  
8 for SIPs, would something like the chimney variance  
9 that's been given to many employers that we've  
10 encountered in Kentucky at power plant construction,  
11 would that be something that would be right for SIPs  
12 project?

13 MR. BOLON: I don't know that much about it.  
14 But if you submitted the idea, we'll certainly consider  
15 it.

16 CHAIRMAN STAFFORD: Okay. Any other  
17 questions? Steve, and then Tish.

18 MR. BOLON: Is that a construction-related?  
19 Okay.

20 MR. HAWKINS: Paul, I wondered about the  
21 proper fitting for PPE. That's something one of our  
22 work groups discussed a lot. Would that be outside the

1 rim of SIPs? Or could it be something that was --

2 MR. BOLON: I would go ahead and submit the  
3 idea. And we have a little wiggle room on things we  
4 do. I mean, if things were already being widely done,  
5 and there might be no new costs from it, then that  
6 would certainly make it.

7 Don't you think, Sarah? Or?

8 MS. SHORTALL: Hmm, this is an inconsistency  
9 between the general industry and the construction PPE  
10 standards.

11 MR. BOLON: Right.

12 MS. SHORTALL: The general industry says they  
13 have to fit the employee, and that language was  
14 deflected in the construction one.

15 MR. BOLON: We'd certainly consider it. I  
16 mean, also I'm aware of that. And we can always  
17 propose it, and we'll see what comment and what  
18 feedback we get on it.

19 MR. HAWKINS: Is this form sufficient to  
20 propose it? Or would I need to do something else?

21 MR. BOLON: You can make it here. You're  
22 going to get our phone numbers and e-mails. You could

1 make it to Dayton and myself.

2 Or you could submit it into the rule-making at  
3 Regulations.gov. When the federal register notice  
4 comes out, Regulations.gov is a very easy way to make  
5 comments into a docket, and that gets it in formally.

6 That's probably, I would say, the best way.

7 MS. SHORTALL: That's the way you would make  
8 an individual comment. If you want this to be from  
9 ACCSH, you'll have to make it at one of these meetings.

10 MR. HAWKINS: that was my next question.

11 Just, I'd like to make a motion that OSHA  
12 consider the use of SIPs to include proper fitting PPE  
13 when they make this the next SIPs update.

14 CHAIRMAN STAFFORD: Okay.

15 MR. STRIBLING: And could I tag onto that that  
16 they take a look at the chimney variance that's been  
17 given to many separate employers? It's the same  
18 procedure. It's sort of like --

19 CHAIRMAN STAFFORD: Mm-hmm. Okay. And Tish,  
20 did you before --

21 MS. DAVIS: No. Mine's a process comment.  
22 So.



1 CHAIRMAN STAFFORD: Okay. Let's get through  
2 this motion.

3 So, wow --

4 MS. SHORTALL: Mr. Stribling, would you mind  
5 if we made yours a separate motion? Just so we can get  
6 it down correctly?

7 I have Mr. Hawkins' move to represent OSHA  
8 include proper fit of PPE in the SIPs IV rule-making.

9 CHAIRMAN STAFFORD: Good, all right. The  
10 motion has been made. So we have a second?

11 MS. SHADROCK: I second it.

12 CHAIRMAN STAFFORD: Laurie Shadrock seconded  
13 it. Any further discussion on that?

14 MR. JONES: Yeah, I just have one question.  
15 You said the general duty standard has the language we  
16 want, right?

17 MS. SHORTALL: Yes. Mm-hmm.

18 MR. JONES: So --

19 CHAIRMAN STAFFORD: What are you saying?

20 MR. JONES: You said the general duty --

21 (Simultaneous conversation.)

22 MR. JONES: General industry, excuse me, thank

1 you. General industry has the language we want. Well,  
2 why wouldn't we just propose that they adopt general  
3 industry language for the construction standard?

4 (Simultaneous conversation.)

5 MS. SHORTALL: You have, I believe, in April  
6 of 2010, did recommend that OSHA simply adopt that  
7 language. But I'm not sure if you talked about it in  
8 terms of the SIPs work project --

9 (Simultaneous conversation.)

10 CHAIRMAN STAFFORD: The SIPs process, I think  
11 is the distinction.

12 Go ahead, Steve.

13 MR. HAWKINS: From my understanding, Walter, I  
14 think that might be overly broad for SIPs, and not make  
15 it. So I would prefer that just to try to get the  
16 incremental change of proper-fitting PPE put in for  
17 now.

18 MR. JONES: Okay. Thank you.

19 MR. HAWKINS: And Paul might be able to speak  
20 to that, as well.

21 MR. BOLON: Not really. I mean, I know there  
22 are a number of differences.

1           MR. HAWKINS:           I'm afraid the differences would  
2   be so many, that it wouldn't fall within the --

3           (Simultaneous conversation.)

4           MR. BOLON:           Well, then what I would do, I  
5   would submit one that does part of what you want, and  
6   submit another candidate that does everything. And  
7   then we'll evaluate.

8           MR. JONES:           No -- just a point of  
9   clarification.

10          CHAIRMAN STAFFORD:        Okay.

11          Any more discussion?

12          (No response.)

13          CHAIRMAN STAFFORD:        Okay. Motion has been  
14   made and seconded. All those in favor, signify by  
15   saying "aye."

16          (Chorus of ayes.)

17          CHAIRMAN STAFFORD:        Opposed?

18          (No response.)

19          CHAIRMAN STAFFORD:        Okay.

20          Now Mr. Stribling, let's talk about your  
21   second motion.

22          MR. STRIBLING:           Yeah. I would just make a

1 suggestion to ACCSH that maybe there would be a motion  
2 that DOC looks at. If the chimney variance would be  
3 right for a SIPs project.

4 It may or may not be, but I think it's worth  
5 consideration, because it's been given to several  
6 employers throughout the country, working for the  
7 construction of chimneys, which -- we've encountered it  
8 through power plant construction.

9 CHAIRMAN STAFFORD: Mm-hmm.

10 MR. STRIBLING: Well, so I make such a motion.

11 CHAIRMAN STAFFORD: Okay. Motion has been  
12 made. Do we have a second?

13 MR. ZARLETTI: I second it.

14 CHAIRMAN STAFFORD: Dan Zarletti has seconded  
15 it. Any further discussion? Sarah, before we vote on  
16 that, why don't you rephrase that?

17 MS. SHORTALL: Okay. Chuck Stribling moved to  
18 recommend that OSHA incorporate language from the  
19 chimney variance in the SIPs IV rule-making.

20 MR. STRIBLING: No, I don't think that's what  
21 I said. I suggested that they give that issue a  
22 thorough review to see if it would be right --

1 MS. SHORTALL: Okay --

2 CHAIRMAN STAFFORD: For SIPs.

3 MS. SHORTALL: Okay. That OSHA consider  
4 including that chimney variance in the SIPs IV  
5 rule-making?

6 MR. STRIBLING: Yes, ma'am.

7 CHAIRMAN STAFFORD: That sounds good. Okay.  
8 We had a second on that, right? I've lost track here.  
9 I believe we did.

10 MS. SHORTALL: Mr. Zarletti did.

11 CHAIRMAN STAFFORD: Can seconded it. Okay.  
12 Any more discussion?

13 (No response.)

14 CHAIRMAN STAFFORD: Okay. All those in favor,  
15 signify by saying "aye."

16 (Chorus of ayes.)

17 CHAIRMAN STAFFORD: Opposed?

18 (No response.)

19 CHAIRMAN STAFFORD: Okay.

20 Well, Paul --

21 (Simultaneous conversation.)

22 MR. CANNON: I have a question. Regarding the

1    decompression tables and you know, being part of SIPs,  
2    and the presentation yesterday where they talking about  
3    the challenges because of the outdated table, would  
4    that address their problem with having to go through  
5    the variance process for each project?

6           MR. BOLON:            I think it could.  I think it  
7    would.  Both Jim and I, when we heard that, we had the  
8    same thought.

9           I mean, there are several tables out, at least  
10   the people talking to you said there was very little  
11   difference between them.  And we already know that our  
12   table is not really as good as it needs to be.

13          It's truly no sufficient.            So I think what  
14   we'd probably do, rather than evaluate the three and  
15   come up with the best, if they're all good, we might  
16   allow any of them to be used.

17          CHAIRMAN STAFFORD:            Mm-hmm.  Okay.

18          Walter, did you have a question of comment?

19          MR. JONES:            No.

20          CHAIRMAN STAFFORD:            Or Matt.  I'm sorry.

21          MR. GILLEN:            You know, the bullet here that  
22   fascinates me is the one that's the fourth one down.

1 It says, "To rewrite language to make employer  
2 responsibilities clearer."

3 And I just wonder if that theme sort of  
4 provides a possibility to sort of help on this  
5 longstanding issue about sanitation facilities for  
6 women.

7 You know, I'm just wondering, is it possible  
8 to sort of make employer responsibilities clearer, that  
9 they need to provide separate facilities for women, if  
10 that would fit into this SIPs?

11 MR. BOLON: That's on our list. We're  
12 thinking about it. I didn't put it in here just  
13 because potentially it is addressing a hazard.  
14 Potentially they're new costs.

15 But that's on our list.

16 MR. GILLEN: Mm-hmm.

17 MR. BOLON: I can tell you that. We're  
18 looking at it.

19 MR. GILLEN: Okay.

20 MR. BOLON: Right just off the top of my head,  
21 it seems a little bit of a stretch for SIPs, but.

22 MR. GILLEN: Is there any other industry that

1 doesn't provide separate facilities?

2 MR. BOLON: Well, the maritime industry just  
3 went through rule-making, where they explicitly put it  
4 in.

5 MS. SHORTALL: No, they didn't have separate.  
6 I mean, I think it would require some thought, because  
7 the question would be -- well, would it simply be that  
8 one of the existing facilities has to be reserved for  
9 women and locked, or whether an employer would have to  
10 provide another one for women, and that be locked,  
11 which could involve costs?

12 And then if they take one of the portable  
13 units and make is solely for women, and there are very  
14 few women on the work site, whether the other ones  
15 taken together meet the requirement of the number of  
16 toilets required per employees at the site.

17 So it's not a simple question.

18 MR. BOLON: But it's definitely on our list.  
19 I mean, if that is you question, I can tell you that  
20 we're looking at it.

21 CHAIRMAN STAFFORD: You know, in this  
22 discussion of this the other day, we simply thought it



1 might be helpful just to adopt the California State  
2 standard, which has already gone through this process  
3 and dealt with this issue.

4 And so I think it's something to look at.

5 MS. DAVIS: Just on the sanitation one, just  
6 for clarification. The California one says for every  
7 20 employees, if there is one lady, right, there's a  
8 separate toilet, a locked toilet.

9 And that's how it works.

10 For employees, if it's five employees, you  
11 have a unisex type of toilet.

12 But otherwise it's one toilet for every 20  
13 employees, and to fraction that off, it's one woman,  
14 they'd have their own separate toilet.

15 MR. BOLON: Thanks.

16 CHAIRMAN STAFFORD: Tish?

17 MS. DAVIS: You know, mine is just a process  
18 comment. Rather than a work group on SIPs, what I  
19 might I might recommend, or put forward for discussion  
20 is kind of a standard agenda item at the ACCSH meeting,  
21 that there is a SIPs discussion.

22 So we get a brief update. We have an

1 opportunity to raise issues. And then if it's an issue  
2 that merits a lot more consideration, you know, that's  
3 when a more intensive work group might be --

4 (Simultaneous conversation.)

5 MS. DAVIS: But to make it a standard kind of  
6 agenda item, would perhaps be --

7 CHAIRMAN STAFFORD: No, I think that's the  
8 idea. That's what we would hope to do, Paul. I  
9 appreciate that.

10 Any other questions or comments?

11 (No response.)

12 CHAIRMAN STAFFORD: Thank you very much.  
13 Thank you.

14 Is Jim Maddux -- yeah, there's Jim.

15 All right, one administrative issue as we're  
16 coming to a close here. Tom asked the other day  
17 if -- in your packet is contact information for all  
18 ACCSH members, that we'd like to get back out.

19 Tom requested this. And Laurie Shadrock had  
20 pointed out to me that there are a few mistakes on the  
21 contact information.

22 So I would appreciate it if you would take a

1 look at your contact information, update it. And then  
2 we could get that back to DOC staff, so that we all  
3 have updated information.

4 Gerry, you work for quite an interesting  
5 looking organization there, pal.

6 (Laughter.)

7 MR. STRIBLING: Are we going to pass the word  
8 around, do we update here and now? Or?

9 CHAIRMAN STAFFORD: Yeah. Why don't we do  
10 that? It's in your packet, but --

11 MR. STRIBLING: I mean, do you want to pass  
12 one around, so we --

13 CHAIRMAN STAFFORD: Yes, that's a good idea,  
14 one around to make corrections on, yes.

15 And so I started on this one, I'll start  
16 passing.

17 (Simultaneous conversation.)

18 (Discussion held off record.)

19 CHAIRMAN STAFFORD: All right. So make sure  
20 it goes all the way around. Then it's going to end up  
21 in Mr. Bare's lap.

22 MR. ANDERSON: That's right.

1           CHAIRMAN STAFFORD:           So you'll have all the  
2 correct information.

3           MR. STRIBLING:            Could I put a suggestion, that  
4 you write "master" at the top? Just so we know?

5           CHAIRMAN STAFFORD:           Okay.

6           (Simultaneous conversation.)

7           CHAIRMAN STAFFORD:           All right. Well, that's  
8 going around.

9           Then we were going to dedicate the last half  
10 hour or so back to our discussion on work groups. And  
11 a few things have already fallen into place, Jim, based  
12 on the discussion.

13           And so if we can refer back to the document  
14 that I handed out earlier. I think based on the  
15 recommendation of Mr. Hawkins and the Backing  
16 Operations Subgroup, that we're going to take backing  
17 operations off of the candidates for temporarily  
18 discontinuance.

19           It seems like there's a lot of activities  
20 there, so --

21           MR. MADDUX:            Yeah, it looks like there's maybe  
22 a little bit more than what would be able to be held in

1 the Communications Work Group.

2 CHAIRMAN STAFFORD: Right. I had used the  
3 same rationale last night, thinking about this as the  
4 Reinforced Concrete, and we're waiting for the RFI.

5 But it seems like there's enough activity that  
6 we should back that out.

7 And fortunately, for us, based on this SIPs  
8 conversation, that we'll take that one off the list as  
9 a possible new work group, and just deal with that, as  
10 Tish suggested, through the full ACCSH, and just have  
11 that as a standard part --

12 MR. MADDUX: Yeah, I think that's actually a  
13 very good suggestion. You know, I think that once we  
14 get to a point where we actually have the Committee  
15 looking at a proposed standard, then it may be  
16 worthwhile to have a work group to kind of go through  
17 that.

18 The SIPs projects that I've worked on, I did a  
19 little bit of work on II and quite a bit of work on  
20 SIPs III.

21 You know, it's sort of a different kind of  
22 project for us as regulatory folks. Because each one

1 of the issues in itself usually isn't, you know,  
2 horribly complex.

3 But there are only a certain amount of moving  
4 parts, you know, that the brain can handle. And so  
5 when you get up a certain number, you know, 30 or 40  
6 different things that you're trying to do in one, it  
7 can start getting a little overwhelming.

8 CHAIRMAN STAFFORD: I know, I can appreciate  
9 it.

10 MR. MADDUX: And a work group, you know, would  
11 probably be necessary to have a sufficient amount of  
12 time to work through that.

13 CHAIRMAN STAFFORD: Okay. So I guess this  
14 leaves us, where we have now, based on this discussion,  
15 four work groups that it appears that we're going to  
16 continue:

17 Diversity, Health Hazards/Emerging Issues,  
18 I2P2, and Backing Operations.

19 And you know, historically -- and a lot of  
20 folks around this table have been involved in ACCSH  
21 longer than I have -- but it seems like to me that we  
22 can think about these work groups if we come up with

1 certain outcomes that we want to achieve, or products,  
2 we can have a work group for a meeting or two or three,  
3 or whatever it takes, and move on, once the work is  
4 done.

5 So I don't want to think that we're talking  
6 about six work groups that we're putting in place for  
7 the next decade.

8 MR. MADDUX: It may be possible to keep the  
9 work groups active, and jus say, "Okay, for any  
10 specific meeting, we're only going to have, you know,  
11 face-to-face meetings for a half a dozen.

12 CHAIRMAN STAFFORD: Mm-hmm.

13 MR. MADDUX: You know, something like that,  
14 too.

15 CHAIRMAN STAFFORD: Okay. So Dan, and then  
16 Chuck.

17 MR. ZARLETTI: Okay. Are we at a point in  
18 this discussion to suggest or recommend other subjects?  
19 Or are we going to get there?

20 MR. STRIBLING: Before you do that, I'm sorry,  
21 I was updating my contact list, and I didn't hear the  
22 ones you said that we'd keep in place.

1           CHAIRMAN STAFFORD:           So the ones right now, I  
2 think based on the discussion, and where we're at is  
3 the four that we have in place that are going to stay  
4 in place is:

5           Diversity, Health Hazards/Emerging Issues,  
6 I2P2, and Backing Operations. Those --

7           MS. SHORTALL:           I -- oh, go ahead please.

8           CHAIRMAN STAFFORD:           Those are the four that  
9 are left. And we now have a handful that we're  
10 considering.

11          A           And back to your question. If you have other  
12 issues that you think warrant our consideration, then  
13 yes, we should hear that.

14          MR. ZARLETTI:           Okay. I'll yield to you,  
15 Sarah, first. You had a question. And then I'll come  
16 back.

17          MS. SHORTALL:           Well, I just had a question for  
18 Jim. I'd just say that there has been agreement  
19 reached for an appropriations bill to keep the  
20 government open.

21           I also had heard that -- and please correct me  
22 if I'm wrong -- does that appropriation include a rider



1 prohibiting the agency from doing work on I2P2?

2 MR. MADDUX: I will say that our position  
3 right now is that it appears that there has been an  
4 agreement in principal.

5 But I'm not sure that anybody has seen any  
6 actual language, yet.

7 MS. SHORTALL: Okay.

8 MR. CANNON: The draft language, I guess,  
9 still needs to be agreed upon. But it was MSD --

10 MS. SHORTALL: Just only MSD and not I2P2.

11 (Simultaneous conversation.)

12 MS. SHORTALL: Okay. Thank you, Kevin.

13 (Simultaneous conversation.)

14 CHAIRMAN STAFFORD: So Tish, did you have a  
15 comment? Or Chuck? Oh, I'm sorry, Dan? We'll go down  
16 the line here.

17 MR. ZARLETTI: Okay.

18 Well, I wanted to bring to the attention of  
19 the group, Mr. Chairman, one other issue that I think  
20 would be a good consideration for a future work group.  
21 That has to do with scaffolding.

22 CHAIRMAN STAFFORD: Mm-hmm.

1           MR. ZARLETTI:           I have a personal relationship  
2 with that industry, because I've been involved in it as  
3 a board member, with the SIA for over 20 years.

4           They're an alliance partner with OSHA.           They  
5 did that because of their concerns for their loss  
6 experience, and their issues related to safety and the  
7 erecting and dismantle of scaffold, in addition to the  
8 thousands of end users of those products.

9           But the one thing I think needs to be brought  
10 out is this. Over my last two decades that I remember  
11 seeing the most frequently cited list that OSHA puts  
12 together for construction, scaffolding has been number  
13 one as the most frequently cited of the top ten for at  
14 least all, if not 19 of those 20 or 21 years that I've  
15 been involved in that industry.

16           If this was a hit-the-top-ten once, it would  
17 have been something a little less effective, I think.  
18 But I can remember some years in the past where they  
19 had three of the top ten most frequently cited;

20           Which you're looking at, you know, 30 percent  
21 of the issue with construction is with one subject  
22 heading. And I think in regards to that, you know, the

1 standard is it appears in Subpart L, was last revised  
2 in 1997. It doesn't include anything on mass climbers  
3 that we've talked about.

4 CHAIRMAN STAFFORD: Mm-hmm.

5 MR. ZARLETTI: And a couple meetings ago, I  
6 was on the record as saying I thought after Kevin  
7 O'Shea spoke to us very eloquently about the mass  
8 climber business, and that we saw it on our field trip  
9 again this week, I think it is essential that there  
10 would be some consideration for a product that's taking  
11 on market share in this industry with regards to  
12 scaffolding.

13 Mass climbers are developing all over this  
14 country, as they have throughout the UK and Europe  
15 before this.

16 They're very popular in Canada as well. So we  
17 have a very high North American involvement. But in  
18 all of this, I would like to at least bring it to the  
19 point that as a group to recommend things to OSHA for  
20 the betterment of construction and the industry that we  
21 so serve.

22 I think it would be really a

1 mischaracterization on our part if we don't take a hold  
2 of the number one most frequently cited thing for as  
3 many as two decades running, every year.

4 And take a look at it, so that we could bring  
5 in some of the manufacturers, some of the bigger  
6 erectors of the scaffolding, and even some end users;  
7 and talk about the training, and talk about all the  
8 things that have to be systemic in the process of  
9 scaffolding, that causes it to raise its ugly head on  
10 the top ten list so often.

11 And I would stand corrected if someone from  
12 DOC could remember that there was a gap of time in the  
13 last 20 years when scaffolding wasn't on the top ten;  
14 but as I remember it, I can remember as many as three  
15 times that it was on the top ten, and it's always been  
16 the top of the top ten.

17 So I really think it's important for us to at  
18 least take a look at that.

19 CHAIRMAN STAFFORD: Okay. I appreciate that,  
20 Dan. We'll add scaffolding to our list here, as we  
21 kind of go through this process of --

22 MR. MADDUX: Yeah, I mean, I think that this

1 is an interesting exercise. We've kind of had the same  
2 sort of exercise internally, you know.

3 CHAIRMAN STAFFORD: Mm-hmm.

4 MR. MADDUX: And there are lots of work groups  
5 it would be interesting to have.

6 CHAIRMAN STAFFORD: Right.

7 MR. MADDUX: You know, mass climbers. I mean,  
8 certainly a relatively new growing technology,  
9 scaffolding, you know, not even outside of the mass  
10 climbers.

11 I mean, I just got an e-mail five minutes ago  
12 about a scaffold stair tower collapse.

13 CHAIRMAN STAFFORD: Mm-hmm.

14 MR. MADDUX: You know. So scaffolding  
15 problems continue to --

16 MR. ZARLETTI: Well, I represented the  
17 Scaffold Industry not only on there board, but I worked  
18 for a contractor for a number of years, that did about  
19 four million hours a year in scaffold work, as an  
20 erector of scaffold, not so much an end user.

21 And I know there were problems that we dealt  
22 with, that we overcame. But I know that the industry

1 has not gone to that limit.

2 CHAIRMAN STAFFORD: Mm-hmm.

3 MR. ZARLETTI: So there is a lot yet to  
4 overcome.

5 CHAIRMAN STAFFORD: Okay. I appreciate that.  
6 I know two meetings ago, one of our staff persons, Pam  
7 Suzie, worked with Kevin O'Shea and other industry  
8 stakeholders and recently put out the document, you  
9 know, climbing higher. I know you have, Jim.

10 So I kind of thought that we developed some  
11 products and had moved on. But if this is back on the  
12 table, and if OSHA needs some guidance on scaffolding,  
13 then we should put this back on the list of  
14 possibilities.

15 Yes?

16 MR. ANDERSON: I just wanted to make a comment  
17 that I know scaffolds are always high on the top ten  
18 list. And there's no doubt about that.

19 And mass climbers were coming on. But as was  
20 mentioned, scaffolds, there is an alliance that deals  
21 with scaffolds. We have a fall campaign that's coming  
22 out, the point here being that scaffolds and other

1 types of falls usually fall in the top five.

2 And I don't know they would be the best -- or  
3 just for the Committee's consideration -- the best use  
4 of resources just to focus all of your attention on  
5 scaffolds.

6 CHAIRMAN STAFFORD: Mm-hmm.

7 MR. ANDERSON: Maybe, you know, we have the  
8 fall campaign that we're working on. And that's going  
9 to focus on several different kinds of falls. And I  
10 would just offer just kind of thinking here, that maybe  
11 a focus group or a work group on falls in general would  
12 be a better use of resources.

13 CHAIRMAN STAFFORD: All right. Well, let's  
14 get through here. Tish and then Chuck, and then we'll  
15 just go around the table.

16 MS. DAVIS: The only comment I was going to  
17 make, on this list, is to possibly, if there's interest  
18 in surveillance and evaluation, that that might  
19 encompass inspection targeting, because one of the  
20 purposes of surveillance is targeting.

21 CHAIRMAN STAFFORD: Mm-hmm.

22 MS. DAVIS: So that those two things might be

1 combined.

2 CHAIRMAN STAFFORD: Surveillance/Targeting.

3 MS. DAVIS: Yeah. Surveillance/Evaluation  
4 Targeting.

5 CHAIRMAN STAFFORD: Okay. I think that's a  
6 good suggestion, Tish. It would be something to  
7 consider.

8 Well, let's go around the table to get input.  
9 And then we'll come back. I mean --

10 MR. MADDUX: Yeah, it sounds like there's  
11 plenty of opinion here.

12 CHAIRMAN STAFFORD: Chuck, did you?

13 MR. STRIBLING: Yeah, Mr. Chair. The Safety &  
14 Health Training -- yeah, I think there needs to be a  
15 work group -- there are bazillion topics we could take  
16 on in Safety & Health Training. And there's a lot that  
17 could be addressed.

18 And from what I heard Mr. Zarletti say, some  
19 of those scaffolding issues could be addressed in  
20 Safety & Health Training.

21 Why is it cited so much? Where's the gap?  
22 Why is the word not getting out? Why is it so



1 difficult?

2 CHAIRMAN STAFFORD: Mm-hmm.

3 MR. STRIBLING: Now mass climbers?

4 Absolutely. There needs to be some action taken with  
5 the mass climbers.

6 We're seeing them more and more and more and  
7 more. It's not addressed in the standard. It's not a  
8 new technology, but in the OSHA standards it is a new  
9 technology.

10 (Laughter.)

11 CHAIRMAN STAFFORD: Right.

12 MR. STRIBLING: So you know, I think that  
13 needs to be addressed.

14 From a state plan perspective, inspection  
15 targeting is important to us. We struggle with  
16 inspection targeting in the construction industry.

17 And I know I think this group could maybe  
18 provide some valuable insight to the agency that could  
19 be passed onto the states, to more effectively help us  
20 target where we need to be, and the use of the Dodge  
21 reports, et cetera.

22 So I don't want to dismiss that.

1           The Surveillance and Evaluation -- I agree  
2     with Tish -- maybe it's one of those things that could  
3     be rolled in with targeting. But to me, to draw upon  
4     the NORA model, surveillance and evaluation is almost a  
5     cross-cutting sector, that you could make it a  
6     component of almost every single work group.

7           CHAIRMAN STAFFORD:           Mm-hmm.

8           MR. STRIBLING:           And I don't want to muddy the  
9     water here. And I know it could be its own separate  
10    work group just as well.

11          CHAIRMAN STAFFORD:           Mm-hmm.

12          MR. STRIBLING:           But it seems to transcend  
13    almost every single work group.

14          MR. RYAN:           As does training.

15          MR. STRIBLING:           Yeah.

16          CHAIRMAN STAFFORD:           Okay --

17          (Simultaneous conversation.)

18          MR. STRIBLING:           And the Communications and  
19    Dissemination -- yeah, I mean, we've talked about  
20    social media. We can talk and talk and talk and talk,  
21    but we need to get something going. We're missing a  
22    huge component.

1           There again, is that too also a cross-cutting  
2   issue for every work group? Just something to think  
3   about.

4           CHAIRMAN STAFFORD:           Right.

5           MR. STRIBLING:           And I don't want it to get to  
6   be a herd of cats here. But --

7           CHAIRMAN STAFFORD:           No, I appreciate it. I  
8   mean, this is the discussion we need.

9           Okay.           I just got a note. Bill has to leave,  
10   and I believe Gary. So if you want to weigh in on your  
11   thoughts about work groups, please do.

12          MR. HERING:           Yeah. I think that the scaffold  
13   situation, you know, and talking about that, our parent  
14   company, Matrix, in Tulsa, Oklahoma, we're kind of  
15   rewriting our personal policy on it, because of the tow  
16   boards and an incident that happened that was severe in  
17   Illinois.

18          And I think that that's something to look at.

19          I don't want to go into detail on it.           But you  
20   know, the green tag scaffold to the OSHA standard has  
21   some flaws for our tank builders.

22          Even though we green-tag it, we're adding some

1 things to it that I think would be valuable to a work  
2 group on the scaffolding, Jim. You know.

3 And I think that's something that's always  
4 high on the radar screen.

5 Other than that, I just want say Merry  
6 Christmas to everybody. It's a pleasure to be here  
7 with you folks. I taught at OTI for a number of years,  
8 and really liked working. And I think that this is a  
9 great opportunity to make a lot of improvements, as,  
10 you know, Dr. Michaels said the other day.

11 So, we got to leave about 11:25, because we  
12 got to board a train at 12:30.

13 So that's all I wanted to weigh in on. And  
14 congratulations on chairmanship. To Ben and everybody  
15 else, again happy holidays from Lynn and I.

16 MR. JONES: And the same to you.

17 CHAIRMAN STAFFORD: Thank you. You too, Bill.  
18 Gary?

19 MR. BATYKEFER: Pete, the deal with the  
20 scaffolding, I think, is a big issue in a number of  
21 respects.

22 Individually, individual crafts that erect

1 their own scaffolding, they tend to oversee it a little  
2 better. But when you're in a mass scaffolding  
3 situation, where multi-crafts are using the same thing,  
4 maybe concurrently, with different crafts on the same  
5 platform at the same time, I think that's where a lot  
6 of those issues concerning write-ups come from.

7 So I think that is an issue that we should  
8 keep hot in the coming year.

9 And also the Safety & Health Training. I  
10 think that's an issue that we're all struggling with  
11 right now. With respect to some of the new  
12 prerequisites concerning getting our guys trained up  
13 and instructors in place to deliver the training at the  
14 local union level, we need to stay on top of that, and  
15 see that we're not muddying the waters with a lot of  
16 things that the rank-and-file member, the worker out  
17 there performing the job, is not subjected in learning  
18 a bunch of codes and regulations that they'll probably  
19 never put to use, but need the training to gain access  
20 to different job opportunities out there in the funding  
21 areas of federal, local, or state areas that require  
22 training to gain access to the site.

1           So I think those two issues are the ones that  
2 I think that -- not that the others aren't  
3 important -- but they're a priority.

4           CHAIRMAN STAFFORD:           All right. I appreciate  
5 that.

6           All right, we'll go back.           So Mike, while  
7 we're on this side of the table? Or?

8           MR. THIBODEAUX:           Mike Thibodeaux. Fall  
9 protection is a big issue in home building. And with  
10 the changes that have come about over the last year or  
11 so, that's something that, you know, we can probably  
12 combine fall protection and scaffolding, and deal with  
13 those in one work group, I would think.

14           Because a lot of the work has already been  
15 done. But there are still some issues that need to be  
16 addressed.

17           CHAIRMAN STAFFORD:           Mm-hmm.

18           MR. THIBODEAUX:           Because just like  
19 scaffolding, fall protection has been in the top ten  
20 for many, many years. And not just in the general  
21 industry, but in construction and specifically in  
22 residential construction.

1           So I would agree with Ben that that's one that  
2 we need to take a look at also.

3           CHAIRMAN STAFFORD:           Okay. We appreciate it.

4           And we'll go over here.           Walter?

5           MR. JONES:           All right. I'm not clear on a lot  
6 of things. I don't know that -- like with scaffolding,  
7 I kind of agree, but I kind of don't agree.

8           I think like with mass scaffolding, Pam  
9 Suzie's group, IMPAT, they've already come out with a  
10 lot of very, very good guidelines.

11           And it seems like an opportunity for us to do  
12 like what we did with the nail gun, to synthesize those  
13 guidelines into a maybe co-branded product between OSHA  
14 and NIOSH, or just an alliance product of Safety &  
15 Health guidelines as it pertained to scaffolding.

16           Because in terms of even looking at a standard  
17 for scaffolding and looking at what's already in the  
18 pipeline, I just don't see how that's going to get  
19 ahead of anything at this point.

20           But if we were able to come out with some  
21 guidelines, like we did with nail guns, get them up on  
22 the web, get all these hits and drive the public to

1 adopting these guidelines in lieu of a standard, and we  
2 wouldn't even reinvent the wheel.

3 Pam Suzie -- I keep calling it Pam  
4 Suzie -- but the CPWR group, IPAT -- what is it called,  
5 something higher?

6 CHAIRMAN STAFFORD: Rising Higher.

7 MR. JONES: Rising Higher. They have some  
8 very fantastic guidelines on training, on engineering  
9 controls, that are already being implemented, we saw  
10 being implemented across the street.

11 I don't know that we need to talk about it. I  
12 think we should just get OSHA and NIOSH together -- you  
13 know, I don't know who would write the document, but we  
14 could just publish the document, get it out on the net.

15 It could be just like this. And it could be  
16 done in a year. In the meantime, we would have three  
17 meetings talking about it.

18 As far as scaffolding on general duty, I have  
19 no comment. But I think mass scaffolding is a perfect  
20 opportunity to actually have a product in a year.

21 In terms of work groups, I don't really have  
22 any ideas at all. I'm just willing to hear you guys



1 out.

2 CHAIRMAN STAFFORD: Okay. Matt?

3 MR. GILLEN: No particular issues. I mean, I  
4 think like the falls issue, it's really to me more how  
5 we should operate. We should sort of look at it from  
6 the point of view of you know, there's two main  
7 problems.

8 There's problems where we have standards that  
9 have gaps in them. And what those gaps are. And then  
10 the other is where we have good standards, but people  
11 aren't using them, and why. And then talking about  
12 that.

13 So like for example, scaffolds. I mean,  
14 there's a part in that standard, where there's an  
15 appendix missing about how to tie off. Do you know  
16 what I mean?

17 So that's a gap that we could talk about.

18 But in other cases, you know, we have like in  
19 a way the code of practice kind of thing, that the mass  
20 scaffold people have done. It's kind of ready to be  
21 pushed along to a regulation.

22 And the regulation is modular, so just add a

1 new section for mass scaffolds. They've done a lot of  
2 the work on what the code of practice should be for  
3 doing that.

4 So that one seems more right than some of the  
5 others.

6 So to me, I think these are all great topics.  
7 I don't have any specifics on one over the others.

8 CHAIRMAN STAFFORD: Thank you.

9 Kevin?

10 MR. CANNON: I too don't have any suggested  
11 work groups to offer. But I just want to comment on  
12 some of the proposed work groups. You know, the Safety  
13 & Health Training, and the Inspection Targeting. I  
14 believe there were already work groups established in  
15 the past on both of those issues.

16 And I guess before we move forward with  
17 confirming either, it would be good to go back and  
18 research the record to see, you know, their activities,  
19 what they discussed and see how that could be helpful.

20 I know some of us -- you know, I was  
21 participating as a public member at the time. But you  
22 know, they kicked around every idea, you know, anything

1 short of drive-bys to bulletin boards, I mean.

2 But I think ultimately, they just kind of gave  
3 up on their efforts, and I think that's how the Green  
4 Jobs work group was born. Per my review.

5 MR. MADDUX: Do you know what year that was,  
6 Kevin, when they were working on it?

7 MR. CANNON: Oh, gosh, '08, '09.

8 (Discussion held off record.)

9 MS. SHORTALL: It was probably '09, Kevin --

10 (Simultaneous conversation.)

11 MR. CANNON: Yeah, '08, '09, and then --

12 MS. SHORTALL: Later than '08, later than '08.

13 (Simultaneous conversation.)

14 MR. CANNON: I know they probably met three

15 times. And then it was just done. And then again,

16 Green Jobs was born.

17 So --

18 MS. SHORTALL: Because it was when Susan

19 Billhorn was on the committee.

20 MR. CANNON: Yes. Yes. And Kevin Beauregard.

21 (Discussion held off record.)

22 MR. CANNON: But that's just a recommendation

1 I have before we even, you know, consider moving  
2 forward with the inspection target.

3 But I do want to ask a question of the group  
4 and it's somewhat related to the work groups. And if  
5 you look at the federal register announcements from the  
6 other advisory committees, FACOSH, NACOSH, MACOSH, you  
7 know, they have the same work groups that we had.

8 And I guess my question: Would it be  
9 beneficial to get an update from those like work groups  
10 from the other advisory committees? So we can see what  
11 they're discussing and see the recommendations that  
12 they put forth.

13 I don't know, you know, with Ben being our  
14 DFO, if you have, you know, an exchange of information  
15 with you counterparts with those, or what?

16 MR. ANDERSON: Well, I could certainly look  
17 into that.

18 CHAIRMAN STAFFORD: I think that's a good  
19 suggestion, actually, that --

20 MR. MADDUX: Especially MACOSH is taking up  
21 several of these, so it looks right now.

22 CHAIRMAN STAFFORD: Yeah, so --

1 (Simultaneous conversation.)

2 CHAIRMAN STAFFORD: All right. Yeah, I think  
3 that's good, and maybe we could just have, as a  
4 standard part of the meetings, have someone, a  
5 representative, or however you want to do it, report  
6 back to us on what's going on in those committees, and  
7 what they're discussing, and the overlaps. Yeah.

8 Laurie?

9 MS. SHADROCK: I appreciate all the hard work  
10 on these possible new topics. And I concur with the  
11 Safety & Health Training. There's so much out there  
12 and it could be anything.

13 I really strongly feel that Safety & Health  
14 Work Group would be a great one. Thank you.

15 CHAIRMAN STAFFORD: Okay. Liz, do you  
16 have --

17 MS. ARIOTO: Yeah. I think I agree with Dan.  
18 I think scaffolding is very important, which includes  
19 falls from scaffolds.

20 I think the mass climbers is a big issue.  
21 There's problems out there that need to be addressed.

22 But I think like in the diversity group, like

1 Danessa was really helpful in giving the animation  
2 things shown here. I think it was excellent.

3 So I think we can address some falls, like  
4 scaffolding, if you could address, even in that part of  
5 the Diversity Work Group might help, with the  
6 pictorials, or whether it's animation.

7 And it would follow through with another work  
8 group. So I think every work group can have something  
9 to do with Safety & Health or falls, or ladders, or  
10 whatever you agree on.

11 But I think the scaffolding is a big issue out  
12 there. Especially when there are multi-companies  
13 working on the same scaffold, you know, and having the  
14 competent person who is a designated person is a big  
15 issue out there.

16 So I have to agree with Dan on this one.

17 CHAIRMAN STAFFORD: Okay. Tom?

18 MR. MARRERO: I don't have any comments for  
19 the work groups at this time.

20 But I would like to comment on the job site  
21 inspection that we did on Tuesday. I want to go on the  
22 record and thank Dr. Beatty and Smoot Construction for

1 allowing 15 safety professionals and OSHA to walk on  
2 their job site.

3 (Laughter.)

4 MR. MARRERO: Also, I would ask that in the  
5 future, if we do something like that again, that we are  
6 given maybe like a 15 or 20-minute debriefing time,  
7 that as a courtesy to the host contractor, that we can  
8 discuss what we came across and recommendations.

9 So.

10 CHAIRMAN STAFFORD: Okay. Thanks, Tom.

11 Okay. So we've gone around the table. And  
12 I'm not so sure that we're going to decide here today.  
13 I mean, I -- yeah, Gerry?

14 MR. RYAN: Now we got Steve here.

15 (Laughter.)

16 CHAIRMAN STAFFORD: Not on that side of the  
17 table, are you?

18 (Laughter.)

19 CHAIRMAN STAFFORD: Go ahead.

20 MR. RYAN: I guess I really don't have a whole  
21 lot to add. But I just want to urge again on the  
22 Safety & Health Training. To me, that's one of the

1 most important to the people that I represent; and all  
2 the thousands and thousands of workers on the job site  
3 across the country about the training, or the lack of  
4 training.

5 And just the way some of the things got  
6 changed here the last time. I personally have a really  
7 bad in my mouth how that happened, how it kind of got  
8 jammed down our throat, in a way.

9 And I'm still very dissatisfied with that.

10 So I would definitely like to look at that a  
11 little bit more. Because I think where there's a lot  
12 more new stuff that we could do, and we have a lot of  
13 people involved on this committee that are involved  
14 with training, and I think we could bring a lot to the  
15 table.

16 With the communications, that kind of ties in.  
17 I know that communications is a real big area; but in  
18 the training, I think we could tie some of the  
19 communication aspects of that in with that together  
20 too.

21 So I think I'd like to look at that also.

22 Thank you.



1 CHAIRMAN STAFFORD: I appreciate that, Gerry.

2 Well, Jim, I think at this point, we have  
3 given you some ideas and prioritized. And you've heard  
4 from the Committee on what's important to them, and  
5 others.

6 And I think maybe this is to the stage, where  
7 we really need DOC to tell us in terms of all of these  
8 wish lists of ideas, we have two work groups that you  
9 think that need the most guidance from this Committee.

10 And I think that should probably drive what  
11 the next two work groups are.

12 MR. MADDUX: Yeah. No. And I think that  
13 we've gotten a lot of good feedback here on this  
14 question. And you know, several good ideas.

15 I think that we do need to come back and  
16 reflect and say: Okay, what do we want to do in areas,  
17 where we're going to make sure that we're getting sort  
18 of constructive recommendations that can move forward  
19 in these program areas, and then make the decisions,  
20 you know, based on that?

21 I mean, there's no doubt there's a lot of  
22 expertise around the table on a number of these

1 subjects that could be very helpful, you know, and kind  
2 of try and combine that with, okay, where are some  
3 areas where we're planning some program changes. And  
4 what's doable? You know.

5 CHAIRMAN STAFFORD: Mm-hmm.

6 MR. MADDUX: Kind of the reality check, and  
7 see what makes sense.

8 CHAIRMAN STAFFORD: Okay. That sounds good.  
9 We'll hopefully do this sooner than later. I mean, I  
10 think that the --

11 MR. MADDUX: Yeah, it has to move quickly.

12 CHAIRMAN STAFFORD: All right. I'm sorry,  
13 Tish, go ahead.

14 MS. DAVIS: No. I just want to follow up on  
15 what Walter said. I'm not an expert at all about mass  
16 climbers to recommend that OSHA and NIOSH not develop  
17 guidelines, but look at the feasibility of doing  
18 something on this, like the nail guns?

19 Is that premature to make that recommendation?

20 CHAIRMAN STAFFORD: No. I mean, I think the  
21 document that Jim has in his office, I know you're  
22 sending out to your area folks -- it has been

1 developed -- is an excellent document.

2 MR. MADDUX: I think that it's actually very,  
3 very timely. I think Matt and I and Christine have  
4 kind of been having a few conversations about okay,  
5 well, you know, this nail gun thing was a really great  
6 product. What should we be working on as our second  
7 co-branded document?

8 It's probably a timely thing to look at.

9 CHAIRMAN STAFFORD: Okay.

10 MS. DAVIS: Well, I move that you explore with  
11 NIOSH the feasibility of pulling something together on  
12 mass climbers.

13 CHAIRMAN STAFFORD: Okay. So guys are getting  
14 quick, already at the door, I think.

15 (Laughter.)

16 CHAIRMAN STAFFORD: So there was a motion made  
17 that OSHA and NIOSH explore doing a similar document on  
18 scaffolding generally? Or mass climbers?

19 MS. DAVIS: Mass climbers.

20 CHAIRMAN STAFFORD: On mass climbers, similar  
21 to NIOSH OSHA joint publication on nail guns. That is  
22 the motion.

1           Walter has seconded it.

2           Any more discussion on it?

3           (No response.)

4           CHAIRMAN STAFFORD:           All those in favor signify  
5 by saying "Aye."

6           (Chorus of ayes.)

7           CHAIRMAN STAFFORD:           Opposed?

8           (No response.)

9           CHAIRMAN STAFFORD:           Okay. Thanks.

10          Okay.           So Jim, we'll follow up. But I think  
11 for the purposes, since our discussion yesterday, you  
12 know, since we're talking about the next meeting now  
13 being in April, towards the end of April, Fran, I  
14 believe will be getting out something to all the  
15 Committee to get the best dates for the last half of  
16 April.

17          MR. MADDUX:           You know, and these are decisions  
18 that I mean, we made a lot about how much advanced  
19 planning needs to go into these meetings.

20          Definitely this work group discussion and the  
21 agenda items for the next meeting, you know, is kind of  
22 one of the first steps to get those set.

1           CHAIRMAN STAFFORD:           Mm-hmm.  So I think it's  
2   important we get the next two work groups identified,  
3   so that we can identify the co-chairs that start  
4   working on this.

5           And if surveillance, even though, obviously we  
6   could sit around the table, and we're not all going to  
7   agree on the priorities, I kind of laid out the ones  
8   that I thought that -- even if we don't end up with the  
9   Surveillance/Targeting Work Group, which I would, as  
10  the Chair, would say is the priority, I think maybe  
11  that that's something that we have as full discussions  
12  at ACCSH, that we bring in someone from BLS and talk to  
13  us about trends and the data, and what we're looking  
14  at.

15           I think there are ways to get at some of these  
16  issues, without having a bunch of work groups set up.  
17  So we need to consider that.

18           MR. MADDUX:           Yeah, I think that's right.  I  
19  think we need to think at what are some of the things  
20  that we can just bring to the Full Committee, like we  
21  discussed with SIPs, where, you know, maybe we don't  
22  need a work group for every topic.

1 CHAIRMAN STAFFORD: Right. I'm sorry, Kevin.

2 MR. CANNON: I was just going to say, I guess  
3 in the process of selecting any new work groups, it  
4 would be helpful if they had a clearly defined mission  
5 or charge applied to it, instead of just a name of a  
6 work group, and then --

7 CHAIRMAN STAFFORD: Right.

8 MR. CANNON: And I don't know who, you know,  
9 whether it be Jim, Ben, or who would you know, define  
10 that mission. But --

11 MR. MADDUX: Yeah, no. I think that's  
12 actually very helpful, Kevin. And I think that  
13 something that we have to do better is to provide our  
14 expectations.

15 MR. CANNON: Exactly. Thank you.

16 CHAIRMAN STAFFORD: Walter?

17 MR. JONES: I'd like to just get to follow up  
18 on this group, Thursdays and Fridays are our schedule.  
19 And you know, besides the work group, I think our  
20 schedule on Thursday and Friday provides a lot of  
21 opportunity to address some of these issues you have  
22 outlined here, like communication dissemination, new

1 technologies, inspection target.

2 And I think that's something we can all sit up  
3 here and talk about -- to present to us. And we could  
4 move on even faster. That's kind of where I'm at.

5 Like a lot times, the thing about work groups,  
6 we actually get bogged down in discussing mainly the  
7 same things over and over again, or things that the  
8 work group in other administrations discussed;

9 Whereas once things get to this table, you  
10 know, we make motions, we make resolutions, and we ask  
11 Ben to come back and see where they're at.

12 And some of these issues that you've talked  
13 about only need to be discussed here more often than  
14 not.

15 CHAIRMAN STAFFORD: Okay. No, I appreciate  
16 that. And I think that's something to consider, as we  
17 go forward.

18 I mean, we've talked about six, because that  
19 was the maximum. Do you think some of these issues  
20 should be dealt with at full ACCSH?

21 I'm sure DOC wouldn't lose sleep over the fact  
22 if we only had five work groups and not six.

1 MR. RYAN: Do I hear four?

2 (Laughter.)

3 CHAIRMAN STAFFORD: Okay. So Sarah?

4 MS. SHORTALL: Yes. I would like to enter  
5 into the record as Exhibit 24 the Standards Improvement  
6 Project Handout.

7 CHAIRMAN STAFFORD: Okay. So the plan is just  
8 real quickly, the Full Committee will hear from Fran  
9 relatively soon about dates for the meeting in the  
10 latter half of April.

11 We have four work groups now. We'll figure  
12 out with DOC giving us some direction of where they  
13 need guidance from on what the other two may be.

14 Pardon me?

15 MR. JONES: The OTI is --

16 CHAIRMAN STAFFORD: Okay. So we'll figure  
17 that out, what those work groups will be then. And  
18 sooner than later.

19 MR. RYAN: Are we going to stick to the  
20 four-day meeting?

21 MR. MADDUX: Well, it looks like there's more  
22 than enough material for a four-day meeting. I mean,



1 do people feel like that's a bit much?

2 MR. RYAN: Yeah. No, I think it's a good  
3 idea. So that way we're not rushed --

4 MR. MADDUX: And it kind of makes the most out  
5 of the travel dollars we're using.

6 MR. HAWKINS: You love those two-hour work  
7 group meetings. In most every work group, that two  
8 hours was all productive, meaningful debate and  
9 discussion.

10 MR. MADDUX: That's true.

11 MR. HAWKINS: I think they should stay.

12 MR. RYAN: So you're leaving a half day on  
13 Friday, so people can get home at least in time. So  
14 that's good.

15 MR. MADDUX: Right.

16 CHAIRMAN STAFFORD: Okay. Any other  
17 discussion? Questions or comments?

18 MR. GILLEN: I just want to say that I thought  
19 the tunneling discussion was really interesting. And  
20 you know, I was thrilled to hear that you guys were  
21 thinking that you might be able to, you know, explore  
22 using SIPs to help fix that.

1           Because that's just really been a longstanding  
2 problem. And it looks like there's, you know, 14  
3 tunnels, you know, in the pipeline starting next year.

4           And it just seems like this issue that is a  
5 problem , I could be a problem for workers. It's a  
6 problem for the industry folks, who have to sort of  
7 think back a year.

8           And it puts the state people in a vulnerable  
9 position to potentially hold up a project that could  
10 create bad publicity for them.

11          And I just really would like to say that,  
12 NIOSH, you know, is willing to work with you and help,  
13 because we've had some work in the past on this issue;

14          And that it really does seem like this  
15 upcoming DC Blue Plains variance that you're going to  
16 need is sort of a potential for you to convene the  
17 industry stakeholders to get together and get them  
18 there, and talk about him.

19          It seems like a small industry that could all  
20 fit in this room. And maybe we could make some effort,  
21 and we'd like to help you on that.

22          So I just want to say that.

1 CHAIRMAN STAFFORD: All right. Thanks.

2 Tish?

3 MS. DAVIS: Sorry, I talk too much, I know.

4 I just wanted to thank OSHA's staff, and for  
5 meeting with us yesterday about exploring ways to  
6 really make this work for all of us.

7 And I want to thank you, Pete, because I think  
8 you've done a great job.

9 CHAIRMAN STAFFORD: Oh, thank you.

10 MS. DAVIS: And we're real happy to have  
11 you --

12 CHAIRMAN STAFFORD: I appreciate that.

13 (Applause.)

14 CHAIRMAN STAFFORD: And I appreciate that.  
15 And thank you. Yeah, likewise, Jim and Ben, and the  
16 rest of the staff. We greatly appreciate it, and  
17 really terrific work. It's, I think, been a very  
18 productive meeting. I guess in closing, I wish all of  
19 you a very happy and safe holiday season. And we'll  
20 see you in April.

21 (Whereupon, at 5:36 p.m., the meeting  
22 concluded.) \* \* \* \* \*