

U.S DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH
(ACCSH) MEETING

Wednesday, July 1, 2020

12:08 p.m. - 5:34 p.m.

Via WebEx and Teleconference

PARTICIPANTS:

Kevin Cannon
Scott Ketcham
Charles Stribling
Fravel Combs
Greg Sizemore
Wesley Wheeler
Mark Mullins
Palmer Hickman
Randall Krocka
Richard Tessier
Ronald Sokol
Scott Earnest
Chris Cain
Chris Fought
Scott Mabry
Loren Sweatt
Steve Rank
Tim Irving
Sven Rundman
Cindy DePrater
Ken Stevin's
Joey Gilliland
Juan Lopez
Janet Carter
Deana Holmes
Jennifer Lawless
Fred Coddling

OTHERS PRESENT:

Veneta, Staff
Terry, Operator

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

2 MR. CANNON: Thank you and excuse me.

3 Welcome, everyone, today, ACCSH members and our public
4 participants. Today is part two. Yesterday we had two
5 good workgroup meetings. And if you all joined those
6 yesterday, welcome back. If you did not, you will hear
7 some of the great discussions that were had in both
8 workgroups. Pardon me.

9 Today we have a full agenda. We'll start off
10 after the opening remarks with welcome remarks from
11 Principal Deputy Assistant Secretary Loren Sweatt. We
12 will have

a Directorate of Construction update,
13 followed by a -- and construction update. And then
14 that will be followed by two policy considerations, one
15 related to powered industrial trucks, and the other is
16 the update to the Hazard Communication Standard and
17 then a report out from our workgroup. So given that we
18 have a full agenda, I won't take up too much time. But
19 I will turn it over to Scott Ketcham so he can welcome
20 the group.

21 MR. KETCHAM: Thank you, Kevin. This is Scott
22 Ketcham, the director of the Directorate of

1 Construction. And I am -- I am excited to be here as
2 part of this ACCSH workgroup meeting. I will remind
3 folks that this meeting is being taped. It's being
4 recorded. So when you do have questions, please
5 identify yourself when you ask the question and what
6 organization you belong to.

7 Just as a matter of business in the very
8 beginning of the meeting, we will make sure that we
9 have a quorum within the ACCSH. And other than that, I
10 am not going to spend too much time talking here. I'll
11 be talking here in the second order of business and,
12 Kevin, please have at it. Thank you.

13 MR. CANNON: All right. Thank you, Scott. If
14 I could -- and I'm -- try to do this in as orderly a
15 fashion as we can. We'll go around and do
16 self-introductions of the ACCSH members. And I'll
17 start off with myself. My name is Kevin Cannon. And I
18 am employer rep with the Associated General Contractors
19 of America. Chuck?

20 MR. STRIBLING: Good afternoon. This is Chuck
21 Stribling with the Kentucky Labor Cabinet, representing
22 State Plan Estates.

1 MR. CANNON: Cindy? All right. Excuse me.
2 Cindy, I see you logged in. Are you muted? All right.
3 Fravel?

4 MR. COMBS: Hi. Fravel Combs, employer
5 representative with MA Mortensen Company.

6 MR. CANNON: Greg?

7 MR. SIZEMORE: Greg Sizemore, employer
8 representative, Associated Builders and Contractors.

9 MR. CANNON: Thank you.

10 Wes?

11 MR. WHEELER: Wes Wheeler, employer
12 representative for the National Electrical Contractors
13 Association.

14 MR. CANNON: Mark?

15 MR. MULLINS: Good morning. Mark Mullins. I
16 am an employee rep with the Elevator Constructors
17 Union.

18 MR. CANNON: All right. Go back to Cindy.
19 For some reason, Cindy is having trouble with her
20 audio. Palmer?

21 MR. HICKMAN: Thank you, Mr. Chairman. Palmer
22 Hickman, employee representative with the Electrical

1 Training Alliance, representing the International
2 Brotherhood of Electrical Workers.

3 MR. CANNON: Randall?

4 MR. KROCKA: Thank you, Chairman. Randy
5 Krocka. I am an employee representative with the sheet
6 metal workers, representing SMART International.

7 MR. CANNON: Richard?

8 MR. TESSIER: Richard Tessier with the United
9 Union of Roofers, Waterproofers and Allied Workers. I
10 am an employee representative.

11 MR. CANNON: Ron?

12 MR. SOKOL: Mr. Chairman, Ron Sokol, Safety
13 Council Texas City. I am a public representative.

14 MR. CANNON: Scott Earnest?

15 MR. EARNEST: Hey. Good afternoon, everybody.
16 Scott Earnest, federal rep with the National Institute
17 for Occupational Safety and Health.

18 MR. CANNON: Chris Cain?

19 MS. CAIN: Chris Cain, employee representative
20 for North America's Building Trades Union.

21 MR. CANNON: Chris Fought?

22 MR. FOUGHT: Chris Fought with Merck, North

1 American construction safety director, public
2 representative.

3 MR. CANNON: All right. And I'll try Cindy
4 one more time.

5 VENETA: Kevin, she dialed the wrong passcode.
6 She is trying to call in now.

7 MR. CANNON: Okay. Thank you, Veneta.

8 And, Scott, I'm assuming that we would like
9 Cindy to announce herself for recording purpose, for
10 the record.

11 MR. KETCHAM: Yes.

12 MR. CANNON: Okay.

13 A PARTICIPANT: If she could electronically
14 tell us in chat, we can announce that she is online.

15 MR. CANNON: Okay. Cindy, if you can hear me,
16 if you just send a chat -- excuse me -- confirming your
17 attendance and presence --

18 A PARTICIPANT: Confirmed.

19 MR. MABRY: Kevin, is -- Kevin, it's Scott
20 Mabry. I'll go ahead while you're waiting for Cindy.
21 Scott Mabry with -- the State Plan representative from
22 North Carolina Department of Labor.

1 MR. CANNON: Perfect. All right. We have a
2 quorum. And we can get the meeting started. Next up
3 on the agenda is -- excuse me -- as I mentioned,
4 remarks by the principal deputy assistant secretary,
5 Loren Sweatt. Loren?

6 MS. SWEATT: Hi. Can everybody hear me?

7 MR. CANNON: Yes.

8 A PARTICIPANT: Yes, we can.

9 A PARTICIPANT: Yes.

10 MS. SWEATT: Great. Thank you. Good
11 afternoon if it is the afternoon. I hope that you and
12 your colleagues are doing well. Thank you for taking
13 the time to participate in this meeting of the ACCSH.
14 The work you all do as part of this committee is
15 incredibly valuable to the agency. And I am glad you
16 were able to participate today.

17 I want to acknowledge that many of you are
18 working and have been as critical infrastructure. And
19 I just wanted to take a moment to say thank you. And
20 I'll talk about that a bit more. Although we are not
21 gathering in one location, we continue to stand
22 together in our shared commitment to protecting the

1 safety and health of the nation's construction
2 workforce. It has been about one year since the
3 committee first met with this group of members. And
4 despite the unprecedented challenges of the past couple
5 months, you have already provided great information and
6 feedback to help OSHA work toward our mission.

7 Thank you for all of the great work you are
8 doing on training, education and emerging issues in
9 construction. As you know, most workplace incidents
10 can be prevented with training and education. That's
11 why it's so important to ensure that workers receive
12 the training and tools they need to recognize and
13 address hazards and work safely.

14 OSHA appreciates the committee's updates on
15 falls and trenching as well as emerging issues such as
16 suicide on the job and how opioid use impacts the
17 construction industry. I specifically want to thank
18 the chairs and co-chairs of those workgroups for
19 leading the effort. I cannot understate the importance
20 of your feedback on these issues. Your input on these
21 materials and matters is essential, as well as the
22 influence you can have on helping share information

1 with the industry. As you know, OSHA is considering
2 several construction-related items for regulatory
3 action. You are discussing two of those items during
4 this meeting, updating the Powered Industrial Truck
5 Standard and the Hazard Communication Standard. The
6 agency looks forward to hearing the committee's
7 thoughts and recommendations on these two important
8 items.

9 This year also marks 50 years since President
10 Nixon signed the OSH Act into law, establishing OSHA.
11 In its first half-century, OSHA has helped to transform
12 American workplaces into safer and healthier
13 workplaces. While recognizing the many significant
14 advances in worker safety and health over the last 50
15 years, the agency must remain laser-focused on the
16 present and the future. The nation is currently facing
17 an unprecedented crisis, a pandemic that temporarily
18 sidelined much of the workforce.

19 This is not how we expected to commemorate the
20 50th anniversary of OSHA. However, the importance of
21 worker safety and health and the agency charged with
22 assuring workplace safety has never been more

1 important. As our nation continues to battle the
2 spread of COVID-19, many of America's workers are on
3 the front lines. And this includes you in the
4 construction workforce. As essential workers, many
5 construction workers have been on the job throughout
6 the pandemic. The agency and the nation values every
7 construction worker for the great work they do. And we
8 will continue to work day in and day out to make sure
9 they can do this important work safely.

10 OSHA is working hard by providing guidance and
11 information and responding to complaints to assure that
12 these workers are protected during this unprecedented
13 challenge. OSHA is collaborating with federal partners
14 to ensure a coordinated approach to reduce workplace
15 exposures and ensure a unified federal response to
16 COVID-19.

17 OSHA's message is clear. Employers should
18 have a plan for protecting workers and preventing
19 further spread of disease as well as maintaining the
20 employer's day-to-day function. Employers should
21 ensure that workers are using proper controls to
22 prevent exposure to coronavirus. These include

1 physical barriers to control the spread of virus,
2 social distancing and appropriate personal protective
3 equipment, hygiene practices and cleaning protocols.

4 OSHA recommends that employers consider sick
5 leave policies that are flexible and consistent with
6 public health guidance. In these policies, employers
7 should actively encourage sick employees to stay home.
8 They should also be aware and plan for employees who
9 may need to stay home to care for sick children or
10 other family members.

11 OSHA's guidance specific to the construction
12 industry includes steps to prevent exposures, including
13 the use of physical barriers, limiting the duration of
14 and implementing social distancing practices for
15 in-person meetings such as toolbox, SOX and safety
16 meetings, implementing social distancing practices on
17 worksite -- worksites when possible, staggering work
18 shifts and ensuring indoor projects have good airflow.

19 I encourage everyone in the construction
20 industry to review and implement the guidance as
21 appropriate for their worksites and ask for your help
22 in making sure the agency's recommendations are shared

1 throughout the industry. OSHA also recently issued
2 return-to-work guidance. This document addresses
3 important issues employers need to consider when
4 returning workers to offices and the resumption of
5 other job duties. The guidance is obviously available
6 on our website.

7 OSHA has ramped up its compliance assistance
8 and enforcement efforts to help prevent the spread of
9 COVID-19. This includes initiating inspections in
10 response to general complaints, media referrals and
11 whistleblower complaints related to the virus. At the
12 same time, OSHA has been out inspecting hazardous
13 conditions in construction, including falls and
14 trenching hazards. In the past several months, we have
15 been doing this. And we expect to continue increasing
16 our resources and focus on these hazards as state and
17 local economies keep reopening.

18 OSHA is making every effort to get the word
19 out to employers and workers about agency guidance and
20 other important information. The agency's coronavirus
21 webpage contains the latest information and guidance
22 and is easily found on the OSHA homepage. OSHA's

1 COVID-19 webpage provides information for some types of
2 workers at highest risk of exposure to virus on the
3 job. The agency is also developing industry-specific
4 one-page alerts with information on how best to limit
5 exposure for workers in certain jobs, including
6 construction, retail, healthcare and delivery.

7 OSHA's homepage highlights a COVID tip of the
8 day focusing on important information from our guidance
9 and is continually retooled to provide better access to
10 the latest information and preventing worker exposure
11 to the virus. OSHA is highlighting COVID-19 resources
12 in press releases, social media and the agency's
13 QuickTakes newsletter, which has more than 289,000
14 email subscribers now.

15 Many of these resources are translated into
16 Spanish. OSHA's poster on reducing the risk of
17 exposure to the coronavirus has been translated into 12
18 languages. The poster highlights 10 infection
19 prevention measures every employer can implement to
20 protect worker safety and health during the coronavirus
21 pandemic. OSHA also published a short video and a
22 poster on seven steps to correctly wear a respirator at

1 work. And that poster is in 14 additional languages.
2 The video and poster demonstrate and describe steps
3 every worker should follow when putting on and taking
4 off a respirator.

5 More information about OSHA's guidance and
6 resources for workplaces is available on the agency's
7 homepage at [osha.gov](https://www.osha.gov). OSHA also encourages employers
8 and workers to closely follow the CDC's latest guidance
9 on the symptoms, prevention and treatment of COVID-19
10 at [cdc.gov](https://www.cdc.gov). Going forward, OSHA will continue to fully
11 and fairly enforce the agency's standard. The agency
12 will continue to develop and distribute resources to
13 help employers better understand how to keep workers
14 safe.

15 OSHA understands that working with
16 stakeholders is the best way to achieve the agency's
17 mission. The agency's cooperative programs are
18 excellent ways for employers, workers and associations
19 to work with OSHA on meaningful safety and health
20 initiatives. As you all know, OSHA's onsite
21 consultation program works with small employers to
22 identify hazards and help comply with OSHA regulations.

1 I'd like to ask for your help in encouraging
2 construction companies consider requesting a free
3 onsite consultation. It's also important to note this
4 rests as a firewall between the enforcement side of the
5 agency. Your continued support of the agency's
6 initiatives is also greatly appreciated. And one of
7 these, the OSHA Safe + Sound Campaign, encourages
8 employers to implement an effective safety and health
9 program consisting of management leadership and worker
10 involvement.

11 Safe + Sound Week 2020 is scheduled for August
12 10th through the 16th. Thank you to everyone who has
13 participated in the past. And I encourage everyone to
14 participate again this year. Events and activities
15 leading up to the week can be found at the OSHA
16 website.

17 Another important initiative is the Fall
18 Prevention Campaign. Unfortunately, falls remain the
19 leading cause of death in construction, accounting for
20 nearly one-third of all construction fatalities and are
21 consistently one of OSHA's most-cited hazards. In the
22 six years since OSHA began doing stand-down events,

1 nearly 10 million workers have been reached by our
2 message that falls are preventable. However, despite
3 these efforts, too many workers continue to die from
4 fatal falls each year. It's time to move the needle,
5 change the behavior and start to see a decline in these
6 fatalities.

7 OSHA is open to your ideas on ways we can
8 continue expanding our reach on this campaign. This
9 year's fall stand-down campaign has been rescheduled
10 for September 14th through the 18th. And the campaign
11 will emphasize hosting these events safely in social
12 distancing environments. I want to thank NIOSH, NORA
13 and CPWR for their continued support of this campaign.

14 Most importantly, I want to thank the millions
15 of workers and employers who participated in the past
16 and look forward to large participation again this
17 year. OSHA encourages all employers, big and small, to
18 take some time during the week to talk about fall
19 protection, whether it's for 15 minutes or by hosting
20 events throughout the week. The important thing is
21 that employers and workers participate and receive the
22 information that can save their lives. Trench

1 collapses also remain a major cause of death in the
2 construction industry. And lack of trench protection
3 is consistently one of OSHA's most-cited hazards in
4 this industry.

5 OSHA is using every tool in its toolkit. The
6 agency's response includes traditional enforcement and
7 outreach, as well as onsite consultation and other
8 cooperative efforts to remove workers from hazards.
9 OSHA is out doing impactful inspections related to
10 trenching. Trenching Safety Week was two weeks ago.
11 And there is still work to be done to further reduce
12 cave-in hazards in the workplace, which is also our
13 agency priority goal. And OSHA is up to the task to do
14 all we can to prevent these and highlight the concerns
15 we have about others.

16 The APG counts how many hazards OSHA sees and
17 ensures are abated. But any help you all can provide
18 in more broadly improving trench and safety to reduce
19 injuries and fatalities will help improve everything we
20 do in this area. We can use your help in promoting the
21 seriousness of the hazards and the available means to
22 address them. By spreading the word that OSHA will be

1 emphasizing trenching projects in its enforcement and
2 cooperative training, targeting and encouraging those
3 who hire contractors and anyone who sees trenching
4 hazards to report unsafe conditions to OSHA will be
5 doing more to address these issues. Thank you again
6 for your commitment to construction safety, for
7 volunteering your time as part of this committee, and
8 for inviting me to be part of your meeting today.

9 The work you do goes a long way towards
10 improving the safety and health of construction
11 workers. Please help us encourage everyone in the
12 construction industry to keep abreast of OSHA's
13 resources and activities for keeping construction
14 workers safe. We want every employer and every worker
15 to know they can find valuable information on OSHA.gov
16 by signing up for QuickTakes or following us on
17 Twitter.

18 Let's continue doing all we can to send every
19 worker home safe and healthy each and every day.
20 Please continue to stay safe and wish you all a very
21 happy 4th. Again, thank you for all the work that you
22 are doing. And I look forward to hearing the --

1 ACCSH's recommendations at the conclusion of your
2 meeting later today. I know you have a long day ahead
3 of you. And I appreciate the opportunity to speak with
4 you. Thank you.

5 MR. CANNON: Thank you, Loren. You know, for
6 one, the work that you and your team are doing in
7 response to this, you know, ever-changing situation,
8 providing the guidance, I know AGC, for one, has found
9 it helpful to distribute to our members so I want to
10 thank you for that. But second thank you for, you
11 know, continuing to show your commitment to the
12 construction industry by keeping the committee engaged
13 and, you know, keeping the work going that we started
14 over, you know, the past year. So -- so thank you for
15 that.

16 MS. SWEATT: Thank you very much.

17 MR. CANNON: All right. I'm not sure if you
18 want to take any questions. We are at the 12:30
19 mark -- from the committee, that is.

20 MS. SWEATT: I'm going to let you all get to
21 your work. I know you have a very aggressive agenda
22 and a long day ahead of you. And we do too. Thanks.

1 MR. CANNON: Okay. All right. Thank you.

2 All right. The next agenda item would be the
3 Directorate of Construction update by Mr. Scott
4 Ketcham.

5 MR. KETCHAM: Thank you. Thank you, Chair.

6 This is Scott Ketcham, the director of construction.
7 And I am very pleased to be with you. That was -- that
8 was a great opening to our meeting. And I'm going to
9 cover some things that are very similar to what Ms.
10 Sweatt covered. But I'll be very quick in going
11 through those to segment and augment what she said.

12 So I'm going to start off with just the agenda
13 up here, which is what I'm going to be talking about.
14 And this is a very large agenda for this. So I'm going
15 to try to get through this in 30 minutes. I may go a
16 little bit longer. But this is good stuff that I think
17 all of you will gain from. And it's been a year since
18 we've had our last full committee meeting together. So
19 a lot has gone on in a year. And obviously as -- as we
20 all know, a lot has gone in with the -- with the
21 pandemic environment. So there is some things in here
22 that we should catch up on.

1 And I'm going to kick it off here with talking
2 about -- a little bit about the Directorate of
3 Construction and focusing on some of our traditional
4 hazards that we've addressed previously and a little
5 bit about COVID. But I think Loren Sweatt covered the
6 highlights. But I'm going to show you some links on
7 there as well. Next slide.

8 As Loren indicated, OSHA is 50 now. We have
9 been an organization since signed by the President in
10 December 1970. So we are -- this is landmark
11 legislation. And as Loren noted, we are in our 50th
12 anniversary. Technically, it's in December, December
13 29th. But we're in our 50th year. And we are proud of
14 the work that we've had behind us and the work in front
15 of us.

16 So a little bit about the Directorate of
17 Construction. For those of you who haven't been with
18 us in a ACCSH meeting before, we have three offices
19 within the Directorate of Construction: Office of
20 Construction Services; Office of Construction Standards
21 and Guidance; and Office of Engineering Services. All
22 three of these offices basically do pretty much -- we

1 are our own stop shop for construction. So our Office
2 of Construction Service does compliance assistance as
3 well as field enforcement assistance and letters of
4 interpretation and runs these meetings for the ACCSH,
5 our Standards and Guidance -- Construction Standards
6 and Guidance Office develops and promulgates
7 construction standards as well as works on directives
8 and interpretations. And then our field element is our
9 Office of Engineering Services. They do quite a bit to
10 service technical issues that occur that require
11 engineering assistance out in the field.

12 All of our engineers are forensic engineers
13 and structural engineers. And they provide assistance
14 out in the field to -- for the most complex
15 investigations. And I'm -- I'm trying to highlight one
16 of these services every time that I talk to the --
17 either the ACCSH or to other stakeholder groups. The
18 types of work they do involve failures.

19 You can see on the top there that is the
20 tragedy that occurred at Florida International
21 University where the pedestrian bridge collapsed. And
22 some of the other pictures there on the bottom involve

1 tower cranes where hurricane winds affected them. And
2 I believe in the right-hand side, that's a con tower
3 that collapsed. So they're involved in a variety of
4 types of inspections. And usually they are the most
5 complex inspections that OSHA does from a structural
6 viewpoint.

7 The inspection that I'm going to talk about
8 right now involved a failure on a crawler crane, a
9 lattice boom crawler crane. And in this particular
10 instance -- and these are all teaching moments.
11 Yesterday, during the workgroup, several of our members
12 mentioned how it's important to pay attention to
13 detail. And this is a classic example of the details.
14 If you don't pay attention to them, they can cause
15 tragedy in the workplace.

16 And in this particular incident, it was a
17 construction of a new wastewater treatment facility
18 where a boom crane -- a boom crawler crane was lifting
19 wooden roof trusses to employees who were on a scaffold
20 and assembling the roof system for this worksite.
21 Unfortunately, what happened, the boom hoist wire rope
22 failed. And the wooden roof trusses as well as the

1 boom collapsed onto the scaffold, striking two
2 employees. Unfortunately, terribly, tragically, one
3 employee was killed and the other was injured.

4 And in this particular instance, it was the --
5 the boom hoist line that had failed. And I show you a
6 picture there of what the -- the end of the boom hoist
7 line looked like on the -- on the top of the crane
8 there, which is circled in yellow. That was -- the one
9 on the right side is the actual failed line, which is
10 dangling down below. And it was a complete failure of
11 the line which allowed the boom to fall down onto the
12 structure.

13 The cause of the incident, as we investigated
14 it through our engineering services and with field
15 assistance, our CSHOs out there as well, was failure of
16 the boom hoist wire rope due to fatigue. And extensive
17 numbers of wires on the exterior strands and, in one
18 case, complete failure of the rope had led to a
19 fracture in the rope that led to the failure of the
20 line.

21 And looking into it a little bit further, we
22 found that the contractor did not properly inspect the

1 crane's boom hoist wire rope during the shift and
2 monthly inspections in accordance with the standard,
3 our crane standard. Most notably, the contractor
4 failed to document its monthly inspections and its wire
5 ropes and also metallurgical examination of the failed
6 wire rope indicated that the extent of the break of the
7 wire rope due to fatigue failure was extensive and
8 numerous over time and could have been easily
9 identified if it had been properly inspected.

10 Notably, the contractor did not correct these
11 deficiencies when raised by a third-party inspector
12 during the annual inspection a few months before the
13 tragedy. If you look at the pictures below, there was
14 slings and hooks that were damaged that should have
15 been pulled from service that we identified as well.
16 And so this just is an identification of paying
17 attention to detail and doing the inspections, pulling
18 things out of service that need to be pulled out of
19 service so they don't lead to significant -- in this
20 case, a significant tragedy.

21 Okay. Loren talked a little bit about
22 coronavirus. I'm not going to talk quite a bit about

1 coronavirus. But what I am going to tell you is that,
2 as Loren said, we are working closely with CDC,
3 including NIOSH and other federal agencies, as well as
4 stakeholder groups, to -- looking at this pandemic.
5 And our message is clear. As Loren clearly stated,
6 employers need to have a plan for protecting workers
7 and preventing further spread of the disease as well as
8 maintaining your day-to-day functions.

9 And OSHA as well as our federal partners and
10 other stakeholders as well have provided a wealth of
11 information out there to assist the construction
12 industry and related to your concerns. Again, while
13 working with CDC, NIOSH and other agencies to monitor
14 the ongoing pandemic and give additional information --
15 and again, you know, obviously the risk increases when
16 workers have frequent close contact with the general
17 public or other coworkers.

18 If you are interested in more information, I
19 know we have put this out in various ways. But I
20 wanted you to pay attention to the fact that we do have
21 our coronavirus webpage. And it will take you down.
22 And it has current guidance policies, engineering

1 practices, all types of guidance from OSHA and in
2 coordination with CDC/NIOSH on prevention measures,
3 engineering controls and other things that will help
4 reduce the risk. Next slide.

5 Going on to the top violations or the top
6 conditions in construction, I will say that some of you
7 may have seen my presentation on this in regards to the
8 top 10 for construction. This is as of September 30,
9 2019. So this is 2019 data. And I highlighted in red
10 there the areas where the majority of the conditions
11 related to a fall. And you can see No. 1 was fall
12 protection, the general requirements of 1926.501,
13 followed by scaffolding, 451, which also, many times,
14 has a fall hazard associated with guardrails or
15 associated fall hazards. Ladders, fall protection
16 training --

17 Then you have nine and 10, aerial lifts and
18 fall protection system criteria and practices, which
19 prescribes how a guardrail or a system -- what the
20 system components are. In addition, we also had quite
21 a few excavation hazards that were noted during the
22 year. And this is just the numbers of total violations

1 in a different graphic. It represents the same data
2 from the previous set but gives you an idea about the
3 total violations and which portion were serious,
4 willful and repeat. Again, I would highlight that you
5 can see that there has been significant -- as Loren was
6 talking about, significant emphasis on falls.

7 And you can see, down in the third from the
8 bottom, specific excavation requirements, a significant
9 increase due to our agency priority goal on looking at
10 conditions in the excavation and trenching industry.

11 Next slide. So that brings me around to the Focus
12 Four. This has been around for quite a while, about a
13 decade. And if you haven't been to our webpage, you
14 can go to OSHA.gov, and you can find the OSHA Focus
15 Four training package. And it talks about the four
16 major contributors to fatalities in the construction
17 industry trades.

18 And it has toolbox docs. It has tons of
19 information that will -- that is available free for you
20 and that you can utilize in toolbox talks or safety
21 meetings with your staff or out in the field, a variety
22 of methods. And just all of this information is

1 transmittable onto portable devices. So it's good
2 stuff that you can use while you're out in the field
3 using portable devices.

4 So, again, I just wanted to reiterate that
5 those are the four. And you can see falls by far
6 was -- with 338 -- and this is -- BLS data from 2018
7 was the largest contributor to fatal incidents in the
8 construction industry trades on -- in 2018 data,
9 followed by struck by electrocutions and caught
10 between.

11 So I'm going to talk about something
12 significant here. I have been with the Directorate of
13 Construction now going into my fourth year. And I will
14 tell you that, every year, as Loren said, we want to do
15 something about reducing these numbers. If you look at
16 that big yellow -- I call it an explanation there which
17 shows 14 percent. In 2018, construction fatal fall
18 incidents dropped by 14 percent.

19 And to put that into perspective, when I was
20 talking with a colleague of mine in the BLS, 14 percent
21 is a significant number. That is statistically
22 significant. And I wanted to highlight that from the

1 viewpoint of although we would like to see the number
2 of fatal falls be zero, we would like to see that
3 number as low as possible leading to zero. A 14
4 percent reduction means that we are doing something
5 right. And so I'm -- we're hopeful on that. We'll
6 keep monitoring that every year. We use BLS data as an
7 indicator, as a measure of success, among other
8 measures. But a 14 percent reduction shows we are
9 heading in the right direction. Next slide.

10 We also have struck-by incidents, which is the
11 second contributor. And struck-by, you can see that
12 out of 112 incidents, struck by falling object or
13 equipment other than a powered vehicle amounted for
14 roughly half of those -- or a little bit more than half
15 of those numbers. Next slide. Electrocution incidents
16 in construction, there were 86 in 2018. You know, and
17 that -- it shows you direct exposure and indirect
18 exposure to electricity as a breakdown within BLS.
19 Next slide.

20 And finally, caught-in-and-between incidents
21 in construction with 55, we have been closely
22 monitoring this, looking at the excavation or trenching

1 and cave-in which falls into this hazard category. It
2 was 25 percent of these types of incidents. And we're
3 looking at trying to reduce that number even lower.
4 And I'm going to talk quite a bit about trenching here
5 towards the end. But that kind of gives the categories
6 within BLS.

7 Switching gears here over to regulatory
8 activities, we are still working on rulemaking. In
9 February, we issued technical corrections to 27 OSHA
10 standards. Primarily, these were minor issues that
11 needed to be corrected, typos, graphs that were
12 transposed in the wrong direction, the things that we
13 had noticed since other rules had been issued. We
14 collected them into one big bunch. And we corrected
15 them in one technical correction. And that was issued
16 in February.

17 We still have railroad cranes out in final
18 rule clearance right now. We are expecting that to
19 move on to a final rule here very, very soon. On crane
20 amendments, we have a national proposed rulemaking.
21 It's in clearance right now. So that one is coming as
22 well. And I mentioned on our last meeting that

1 communication towers was -- we had closed a SBREFA two
2 years ago. And that is set on for a notice of proposed
3 rulemaking and is on the reg agenda. In addition, the
4 ACCSH, we held meetings to receive information from the
5 ACCSH regarding welding in confined spaces and PPE fit
6 in construction.

7 And those rulemakings are moving forward as
8 well. So I appreciate the input. We all appreciate
9 the input from the ACCSH in regards to that. Switching
10 gears a little bit, this was a rule that went out two
11 years ago, a final, a little bit over two years ago,
12 crane operator qualification. I know some people are
13 wanting to know updates on when we are going to get
14 some final documents out.

15 I know frequently-asked questions, there is
16 one more batch that is going through clearance right
17 now. And it's primarily on payment of the operator
18 certification side for paying people who -- who pay --
19 who are -- their certification on their own and
20 ensuring that we are clear about that. Also, an update
21 to the Small Entity Compliance Guide, that's an agency
22 clearance as well since the rule came out. We're going

1 to have to update the Small Entity Compliance Guide to
2 include operator certification. And that's in
3 clearance right now. So the FAQs and the Small Entity
4 Compliance Guide are very close to being released. And
5 I know several stakeholders have asked me about this.
6 Our directive on enforcing operator qualification is in
7 final agency clearance now. So all three of these
8 things are in the works right now.

9 I cannot comment on them until they are
10 released. But I am expecting us to have these out very
11 shortly. We are also working on three directives. And
12 this is new. And this is something we have been
13 working on in the background. But I want to let the
14 ACCSH know that as well as the stakeholder community
15 listening in on this, that we are working on, as I
16 mentioned before, an updated crane directive for
17 operator certification which will be -- is going
18 through clearance now. But we are also working on a
19 new and updated excavation directive.

20 The excavation directive that we currently
21 have in place right now was developed back in the early
22 '90s. And we are looking at updating that and moving

1 forward with a new excavation directive here sometime
2 in the summer or early fall as well as a drone
3 directive, a small unmanned aerial system directive
4 that we are working through clearance right now as
5 well.

6 So there are three directives in construction
7 that you should be seeing here shortly. In the
8 meantime, while we're working on rulemaking, we get
9 asked by stakeholders about conditions, standards that
10 are out there that are updating and wondering what
11 OSHA's take is regarding certain new standards. And
12 there is -- as all of you, I'm sure, are aware, there
13 is a new A92 consensus standard that recently came out
14 and has been approved.

15 I just wanted to point out that for those of
16 you who didn't know, we do have a letter of
17 interpretation from 2001. If you Google it, it's the
18 Hayden letter. And it basically explains under our de
19 minimis policy we are in -- we have adopted an earlier
20 consensus standard, in this case, the 1969 standard.
21 Employers who are compliant with the updated version
22 will not be cited for a violation of the old version as

1 long as the new one is at least equally protected. So
2 as long as the new standard is at least equally
3 protected, you can utilize that standard as long as
4 it's, again, qualified, as long as it's equally
5 protected.

6 For us to update an incorporation by
7 reference, we have to do that through rulemaking. And
8 so even though the ANSI A92.2 has been revised to
9 A92.22, 24 and 26, the OSHA aerial lift standard
10 continues to require compliance with the 1969 standard.
11 So I just wanted to make that very clear.

12 Moving on to telecommunication tower
13 fatalities, I mentioned that we are working on a
14 rulemaking on telecommunication tower fatalities. And
15 one of the reasons is, when there is an incident in
16 this industry, it has a tendency to be quite injurious
17 and/or fatal. In 2019, there were a total of eight
18 fatalities in this particular industry on the
19 construction side, two of these fatalities in 2020 to
20 date.

21 I'd like to highlight just some of the
22 instances that occurred in this particular -- as you're

1 looking at the pictures over on the right-hand side,
2 you can read the incident that happened there. But
3 basically a young person was -- a person was climbing
4 up a self-supporting tower, a -- it appears to perform
5 work. The climb took place at night with limited
6 visibility and inadequate lighting.

7 And the company had no safety plans for --
8 encountered for work hazards encountered during night
9 work. On the way down, an employee was at the 180-foot
10 level descending the tower when he fell. And what the
11 -- the problem that led to the incident here was you
12 can see in the lower right picture that's a step bolt.
13 And the employee was putting an oversized carabiner
14 onto the step bolt. And when he fell, the carabiner
15 went to the edge of the step bolt and fell off.

16 Again, the proper fall protection anchorage
17 point, proper fall protection anchorage point, was not
18 used. And the employee unfortunately fell to his
19 death. Terrible, terrible situation. So on our
20 standard development, I mentioned earlier that we went
21 through a SBREFA process and that it is on the
22 regulatory agenda now. We are closely revealing --

1 reviewing existing consensus standards as well as State
2 Plan standards. You can look and see panel topics from
3 the SBAR on the link that is on your web -- on the page
4 there.

5 And we're continuing to conduct research and
6 reach out to stakeholders as we continue on with this
7 process towards a proposed rulemaking -- a notice of
8 proposed rulemaking. Moving subjects here over to the
9 health side, I want to state that yesterday we had a
10 work group meeting, and great discussions were held on
11 a couple subjects that were emerging issues. And one
12 of them was on opioids. And I'm going to let the work
13 group talk about that when their opportunity comes up
14 later on in the day.

15 But I just wanted to say that opioids and
16 construction is an issue, and it's something that OSHA
17 is committed to working and supporting and sharing
18 ideas and trying to figure out how we can assist in --
19 in this epidemic issue with the opioid use. Suicides
20 is the second part of the emerging issues. And we are
21 going to talk about that a little later. But I'm going
22 to -- I just like to briefly discuss the issue of

1 suicide prevention. Suicide is a serious public health
2 problem that can have lasting harmful effects on
3 individuals, families, workplaces and communities.

4 While everyone experiences stress at times, sometimes
5 it can be overwhelming and lead to suicidal thoughts or
6 actions.

7 OSHA is looking into using all our available
8 government resources as well as working with
9 stakeholders to raise awareness on this issue. It's a
10 complicated issue because it has overlapping work and
11 nonwork factors involved. So we're trying to look at
12 this from all angles. And your input as an ACCSH and a
13 construction stakeholder community is important to us.

14 The agency, we're looking at ways to
15 productively work with everyone to help shed light on
16 this problem and find ways to prevent these terrible
17 incidents from happening. If I haven't told you
18 before, OSHA has created a new webpage with free and
19 confidential resources to help workers/employers
20 identify the warning signs and know who and how to call
21 for help. The last thing anyone wants is to have to
22 ask themselves after the fact, "Was there something

1 that I could have done?" Please take a look at the
2 resources on the new webpage and let us know if there
3 are ways to best get this message out to your industry
4 or if there are any other industry-specific issues
5 related to suicide that could or should be addressed by
6 the agency.

7 Moving on to cooperative programs, Loren
8 mentioned Safe + Sound. I put this in there, and I
9 knew that she was going to cover it. But I just wanted
10 something up there that you can take with you from the
11 register. August 10th through 16th -- and it is a
12 great way to recognize, as they say, safety successes
13 and get your safety and health management system to
14 where it identifies and removes, where you find and fix
15 hazards in the workplace. It is a great initiative.
16 And we fully support this program. And we hope you do
17 as well.

18 The stand-down -- Loren mentioned earlier that
19 the fall stand-down has been moved to September 14th
20 through 18th. Just wanted to highlight that again.
21 Again, last year, we had approximately 4,000
22 certificates issued, reaching almost one million

1 workers last year alone. This year, it's going to be a
2 little different. As Loren mentioned, we're looking at
3 social distancing and ways to do it virtually that will
4 emphasize the importance of being socially aware in the
5 environment we are right now.

6 So there is going to be some very interesting
7 ideas. And we are looking forward to hearing from you
8 about how we can help you with your stand-downs out
9 there and throughout the industry. Several members
10 within the ACCSH are involved in the stand-down and
11 were from the very beginning. And I thank them for
12 that. And I look forward to their participation moving
13 forward, especially working with people who are so
14 committed. And I know you are as well towards
15 preventing falls in the workplace.

16 And the fall stand-down is a great way of
17 recognizing that, getting everybody online together in
18 trying to reduce that. This slide here actually shows
19 the 2019 data. And I -- a shoutout to CPWR for
20 collecting data. And each one of them, it shows you in
21 the state. It shows opportunities. And it shows areas
22 that we can more focus on.

1 And so it kind of gives you an idea. The top
2 number is the number of stand-downs in that particular
3 state. And the bottom number shows the employee count
4 in those areas. So if you're interested in that area
5 and you have stakeholders in one of those states, this
6 kind of gives you an idea about where opportunities may
7 lie for all of us. And it certainly gives OSHA an idea
8 about where we can engage our compliance assistance
9 efforts as well.

10 So I thought it was important to share this
11 with you and a shoutout to CPWR. Thank you for that.
12 Fall stand-down events are not going to look like this
13 without a mask or social distancing. I just wanted to
14 point out that they can be large or they can be small.
15 We encourage that in the COVID-19 environment. We're
16 going to have to think a little bit differently on how
17 we do our fall stand-downs.

18 So, again, I just want to reemphasize that
19 this is not how they're going to look in this year's
20 fall stand-down. However, I wanted to emphasize that
21 they could be large events or smaller events, and
22 really we are going to stress the smaller events with

1 social distancing this year. And it can be done
2 virtually as well.

3 OSHA's trenching initiative -- I told you I
4 had a lot of stuff to cover today. So our trenching
5 initiative is -- I think it's something that I think is
6 an exciting generation of ideas and collaboration
7 between the public and private enterprises working
8 together. I can tell you that we have worked together
9 very well with the construction stakeholders.

10 And we have received so much support for that.
11 And I tell you it makes me proud to be a member of the
12 construction community and how all these things,
13 whether it be fall stand-down, our trenching
14 initiative, working together to come up with ideas on
15 how to protect workers in the COVID-19 environment. I
16 could never be more proud of the construction industry
17 and our partnership working together back and forth to
18 ensure that we're looking out for people, looking out
19 for the workers and making sure that we elevate hazards
20 and risks that are out there.

21 Now, in particular, for the excavation
22 industry, it was because of fatalities that brought us

1 -- brought to our attention in 2015 and '16 -- brought
2 it to light that we had had an uptick in the number of
3 trenching fatalities. And it really brought our
4 attention to it that led to this trenching initiative.
5 Furthermore, looking more upon OSHA OIS investigation
6 reports, this data showed where the incidents were
7 occurring.

8 And so you can see in the yellow asterisks
9 over there to the right 53 percent of these incidents
10 were happening in single-family or duplex dwelling,
11 pipeline and highway and street road operations. And
12 as part of our trenching emphasis program, our national
13 emphasis program, this data was incorporated into it to
14 give people ideas on where we should be focusing our
15 efforts to try to reach out to people to educate.

16 And also, from an enforcement viewpoint, OSHA
17 also did quite a bit of inspections in the excavation
18 industry, utilized -- and this is a guide to determine
19 what -- where we've been and where these incidents were
20 actually occurring as a guide to -- for us to look.

21 Next slide. As part of that, Loren mentioned that we
22 have an agency priority goal. In 2020, the -- our

1 agency priority goal previously, which was for '18 and
2 '19, was extended for two more years. So it will go
3 through '20 and '21 for two years.

4 And our goal is to increase trenching and
5 excavation hazards abated or fixed, completed, by 12
6 percent as opposed to 10 percent previously on the
7 previous goal. And also, as part of this, is to look
8 at the compliance assistance side of our inspections as
9 -- or not of our inspections but our cooperative
10 programs as well. So for the APG, we also had a
11 consultation side which counted abated hazards. And
12 now we -- in addition, we have a compliance assistance
13 side where we're counting how many opportunities we've
14 had to go out and speak to industry to teach about
15 excavation hazards and how to prevent them.

16 And again, just looking at this 2019 report
17 shows you that in -- our goal in FY 2019, which was the
18 end of a two-year goal, was 2572 in yellow. And we hit
19 2710. We were very happy to exceed that goal. And
20 we're looking forward to doing more work between 2020
21 and 2021 to achieve a new goal of 2619, which is in
22 progress now.

1 Okay. Some of the conditions we've cited,
2 I've stated this several times to several stakeholder
3 groups. The No. 1 condition is failure to protect
4 employees in excavations by using slope shoring or
5 shielding and -- or benching. And so 652(a)(1),
6 1926.652(a)(1), is still, unfortunately, the No. 1
7 citation. And it is preventable.

8 You know, we -- there is plenty of engineering
9 concepts out there to protect employees and avoid these
10 hazards that, many times, lead to fatalities. And so
11 followed up by means of egress from trench excavations,
12 protection of employees from loose rock or soil or
13 equipment falling into a trench and then the competent
14 person, the daily inspection and where a competent
15 person finds something that is -- could result in a
16 cave-in and does nothing.

17 And then finally, the last hazard that is on
18 there -- and there are others as well. I mean, these
19 are just the top six that we put on here but protection
20 of hazards associated with water accumulation in
21 trenches as well. But you can see the No. 1 by double
22 is 652(a)(1), which is protection of employees in

1 excavations. Okay. On the other side, these are not
2 cases that OSHA prosecuted. But on a criminal
3 liability side, there is liability on this. And one
4 particular company -- and these are all publicly
5 searchable. Both of these companies here were
6 prosecuted and not by OSHA but they were after a --
7 OSHA was involved in both of these cases. And we
8 issued citations in both of these cases.

9 The first one is Atlantic Drain Service
10 Company. In this particular case, the owner was
11 sentenced to two years for manslaughter by a
12 Massachusetts jury. And in that particular case, two
13 employees were killed in a 14-foot-deep excavation
14 without any protective system in place. OSHA cited 18
15 willful and serious violations of subpart B as a result
16 of that inspection.

17 Contract One is another case that is publicly
18 available. You'll find that a Colorado jury indicted
19 the owner for a death of an employee in an unprotected
20 trench in Colorado. In that particular case, OSHA
21 issued one willful citation as well. Again, the
22 trenching safety stand-down -- Loren mentioned this

1 earlier -- was two weeks ago. I want to mention that
2 this started at a much smaller capacity. And it has
3 developed over the years.

4 And we're excited to see it last year reach
5 over 50,000 participants. We are hopeful that this
6 year we'll keep up that number. Even in the
7 environment that we are in now, I can tell you that our
8 friends over in the Utility Contractors Association and
9 -- as well have participated in virtual stand-downs as
10 well as physical stand-downs within the industry. So
11 we are looking forward to getting some good data on
12 that as well.

13 If you didn't know, you know, obviously we're
14 interested in preventing trenching incidents. And we
15 have some guides out there that you can utilize tools
16 that are out there. One of them is a YouTube on
17 excavations in construction where it shows how to do it
18 safely and five things you should know to stay safe in
19 a trench. On the right-hand side is a web link which
20 speak -- which features the Secretary of Labor in both
21 English and Spanish talking about the things you should
22 know to stay safe in a trench.

1 Our strategic plan identifies trenching
2 hazards as the agency priority goal, as you all know.
3 And our goal is to create a work environment, increase
4 the number of corrective trenching hazards and create a
5 work environment where we see these numbers of
6 incidents lowering within this particular segment of
7 the industry.

8 Finally -- I can't believe that I covered this
9 in 37 minutes. That was quite a bit but I did. For
10 continual updates, if you have not subscribed to
11 QuickTakes or the tip of the day, you can go to our
12 website. And it will ask you for -- about QuickTakes.
13 And tip of the day is easily subscribable there as
14 well. If you want to, you can go to www.osha.gov,
15 "contact us." And that will tell you how you can do
16 that. And also I would encourage you to follow us on
17 Twitter and Facebook.

18 And when I -- when Facebook is the Department
19 of Labor page -- so it's not an OSHA page. But you can
20 follow OSHA as a section within that where we're
21 highlighted at times on the Department of Labor page.
22 And I thank you very much. I am excited to be talking

1 with the ACCSH today. I am excited to be a part of
2 this advisory committee and listening to your concerns
3 and addressing them as well. And I thank you for your
4 time.

5 MR. CANNON: Thanks, Scott. Great
6 presentation, a lot of good information. You know, I
7 just want to, you know, express my appreciation for
8 your efforts to focus on the Focus Four and the
9 positive results and trends that you've seen with, you
10 know, fall fatalities and trenching fatalities. I do
11 have one question. In your presentation, you mentioned
12 a directive on drones. And, you know, a lot of
13 contractors are using those for various reasons,
14 inspections and so on. What particular or specific
15 OSHA standard applies to the use of drones?

16 ME. KETCHAM: Well, there is no particular
17 standard that applies to drones, as this is a new
18 technology. This directive, it will be unique in that
19 it is a new technology that we are implementing as part
20 of our work practices to do our inspections.

21 And I don't want to talk too much about it
22 because it's pre-decisional right now. But this is

1 something that is new. And there is nothing out there
2 in regards to an OSHA regulation that speaks to
3 utilizing a drone in the workplace.

4 However, we want to make sure that we
5 recognize rights and from a legal perspective that we
6 address the complications of introducing new
7 technologies into the workplace. And so we're being
8 very thoughtful on this to make sure that we look at
9 this complicated issue of use of equipment or new
10 technology in a judicious manner.

11 MR. CANNON: And so I'm assuming that's more
12 for internal use, then, how you guys use it.

13 MR. KETCHAM: Correct. I'm sorry. I
14 misunderstood you. It is for how OSHA is going to use
15 SUAS or drone technology as part of our inspection
16 process.

17 MR. CANNON: Okay. I'm not sure if -- you
18 know, we're a little over -- if you have time for
19 questions, if there are any, from the other committee
20 members.

21 MR. KETCHAM: I'm willing to take a question
22 or two.

1 MS. CAIN: Kevin, this is Chris. I have a
2 question.

3 MR. CANNON: Go ahead, Chris.

4 MS. CAIN: Okay. Chris Cain, employee rep,
5 North America's Building Trades Union. One thing Loren
6 said struck me. She talked about the fact that OSHA is
7 central to protecting workers in this country. And I
8 couldn't agree more. But where we are right now with
9 the pandemic, we have the number of infections just
10 exploding across the country. And the workers are
11 getting sick on the job and they are dying from it.

12 And it doesn't seem to be evident that the
13 approach is working of -- that OSHA has taken so far.
14 The guidance that was issued is out there, and it's
15 good. However, we're seeing states taking the lead in
16 regulating on coronavirus. And I -- I'm really kind of
17 shocked and disappointed to not see more from OSHA on
18 this. But I do have some questions because I've
19 repeatedly heard that the agency is fully engaged and
20 at full speed on this issue.

21 However, I don't understand what exactly is
22 going on. So the questions I have are along the lines

1 of really two lines. Number 1 is personal protective
2 equipment and the fact that we have issues with supply
3 of personal protective equipment, particularly for
4 healthcare. But that does, of course, spill over into
5 our industry to a great degree. And I have questions
6 about OSHA's involvement in trying to manage the
7 supply, increase the supply and engage with the
8 manufacturers of respiratory protection equipment in
9 particular.

10 And the other series of questions I was hoping
11 that OSHA could explain is what's happening with
12 inspections. What are you seeing in construction when
13 you're doing inspections as a result of complaints or
14 media reports? And what are the injury and illness
15 logs reflecting of the employers your inspection -- and
16 are you doing any fatality investigations in
17 construction?

18 MR. KETCHAM: Okay. Was that two questions or
19 more?

20 MS. CAIN: Well, I'm trying to group the
21 issues that I am really curious about into those two
22 areas of what is OSHA engaging on, on the personal

1 protective equipment front. And what types of
2 inspections are you doing in construction? And what
3 are you seeing when you're there as it relates to are
4 employers recording infections that happen in the
5 workplace. And are you investigating fatalities?

6 MR. KETCHAM: Yes. In regards to that, what I
7 would say is if you could submit your questions in
8 writing to the committee, I will get you an answer back
9 to your concerns regarding that. What I would say in
10 response is that this is a multifaceted approach. And
11 Directorate of Construction is one directorate of many
12 that are working on the COVID-19 response.

13 And so while I am not the author of many of
14 the documents regarding PPE and shortages and how those
15 are being worked with, I can certainly get you an
16 answer on that very, very quickly. In regards to
17 inspections, the agency has put out a document
18 indicating what our stance is. I believe it was in the
19 latter part of May that talked about continuing on and
20 opening up with other inspections. But throughout this
21 COVID -- throughout the COVID pandemic, there have been
22 inspections that have been opened up in a variety of

1 industries, including construction. But I would say
2 the vast majority of them, at least to my knowledge --
3 the focus initially was on the healthcare industry.
4 But I can get you more detailed information to follow
5 up with your question after this ACCSH meeting is done.
6 I will get that information for you.

7 MS. CAIN: Thank you, Scott. And I would have
8 asked these questions of Loren if we were allowed to
9 ask questions. So just wanted to put that out there
10 that I understand that the role of the agency in this
11 crisis is much larger than the Directorate of
12 Construction. But this advisory committee was
13 established to advise the Secretary of Labor on
14 occupational safety and health issues related to our
15 industry. So the questions are larger than your
16 office. So I appreciate you getting back to me. And
17 who should I send those questions to? Should I send
18 them to you or to Damon?

19 MR. KETCHAM: Send them to Damon. And I will
20 make sure that we get them to -- get them answered for
21 you.

22 MS. CAIN: Okay. Thank you.

1 MR. KETCHAM: Thank you, Chris.

2 TERRY: We also have a question from Steve
3 Rank, Iron Workers International. Your line is now
4 open.

5 MR. RANK: Good morning, everyone. Scott, I
6 appreciate --

7 MR. KETCHAM: Morning.

8 MR. RANK: -- the -- I appreciate your
9 presentation. And I had a question regarding the crane
10 incident and the running rope, the running line that
11 was one of the primary factors in the failure in the
12 incident. And I wanted you to explain a little bit to
13 all the ACCSH members about the destructive testing
14 that OSHA has in Utah and how that's used to
15 investigate all crane or similar types of equipment
16 failure.

17 As you're aware, we had a fatality on the very
18 same type of running line failure earlier this year.
19 And all the evidence went back to your Utah facility.
20 And my question is I think everyone needs to know about
21 this destructive facility (audio malfunction) control.
22 But I need to ask how come stakeholders and their

1 expert witnesses are not allowed to participate in this
2 destructive testing because so much is at stake in
3 making sure that the root cause and the final analysis
4 is so important on these crane parts by different
5 manufacturers and experts. So I think this is an
6 important thing for everyone to know as far as crane
7 incidents and destructive testing, your facility in
8 Utah. Could you talk about that just a little bit?

9 MR. KETCHAM: Absolutely. And thank you.
10 Thanks, Steve. We do have a testing facility in Salt
11 Lake. They are part of our Directorate of Science,
12 Technology and Emergency Management. And we call them
13 the Salt Lake lab. And they do testing for us on a
14 variety of hazards. In this particular case, it was a
15 metallurgical examination of the wire rope and the
16 conditions that led to its failure.

17 They have various types of technology that can
18 -- types of microscopy where they can look at it
19 forensically and determine what ultimately led to the
20 failure. In regards to -- and they do a variety of
21 things. They also test for chemical hazards at that
22 same laboratory. They do a multitude of different

1 activities in support of the agency and our State Plan
2 partners.

3 So I can speak to you as the director of
4 construction. I am not the lab director of the lab
5 there. But I can also tell you, as a former area
6 director within OSHA, where I have had nondestructive
7 and destructive testing done by a lab. And I've had
8 side-by-side analysis done so that other parties could
9 be witnesses -- witness to the evaluation in a
10 structural failure.

11 I have not had that done in particular with
12 the Salt Lake lab. But I cannot answer to their
13 procedures there if that was your question in regards
14 to having somebody observe the testing as it's being
15 done in the Salt Lake lab. But I can tell you that as
16 a former area director out in the field in a couple
17 different locations, I have -- had arranged testing to
18 be done. And it was contracted to be done through our
19 lab where we had other parties witness to it to address
20 their concerns.

21 MR. RANK: Thank you, Scott. I think it's
22 very important to have this destructive testing in the

1 lab. I think it's a great facility for a wide variety
2 of tests that you mentioned. But I also think it's
3 very important when you have over 10 stakeholders at
4 the table and need to be part of the protocol for
5 developing how the destructive testing is going to be
6 carried out and what they are going to look at.

7 We have wire rope experts, crane experts,
8 other experts. And they all want fair representation
9 at the table. So the end result will be more inclusive
10 and more involved by the people, the stakeholders. I
11 think it's really important for the agency to open the
12 doors and let these people in. Maybe they have in the
13 past, Scott, but here recently, they have been
14 disallowed to participate in this very, very important
15 finding and this testing. So thanks for your answer,
16 and I may send you a follow-up letter in the near
17 future.

18 MR. KETCHAM: Thank you, Steve.

19 MR. RANK: Thanks, Scott.

20 MR. SOKOL: Hey, Scott. This is Ron Sokol,
21 public representative. I just have one quick question
22 for you. Just regarding the OSHA outreach training and

1 education, when I looked at the data that you presented
2 about 53 percent of the trench fatalities in
3 single-family, duplex, pipeline, highway, street, road
4 and also the number of falls that occur from
5 residential construction, what is the agency doing to
6 partner with municipalities and government entities in
7 cities to be able to educate their inspectors that are
8 issuing permits and are out there inspecting these
9 single-family homes and these excavations for the
10 contractors that are working there? Does the agency
11 have a plan to be able to kind of educate this group to
12 allow them to interact in a more effective manner with
13 the contractors that are getting these permits and
14 ensuring that they're -- they have knowledge of the
15 hazards and are correcting them for the workers?

16 MR. KETCHAM: Yes. Thank you, Ron. And I'm
17 going to put Tim Irving, my new deputy, on the spot
18 here. Tim just came from a -- he was an administrative
19 -- an ARA, assistant regional administrator for
20 cooperative and state programs. And I'm -- what I was
21 going to segue was that our efforts are not only
22 started from the strategic level here policy-wise at

1 the national office, but they go out to the field as
2 well, which includes all the cooperative efforts being
3 done out in the field. Tim, are you on there?

4 MR. IRVING: Yes. Hi, Scott. Tim Irving,
5 deputy director, Directorate of Construction. As far
6 as the outreach to the building inspectors, I know that
7 a lot of the local compliance assistant specialists
8 work within the municipalities. I know all the fall --
9 a lot of the fall stand-down information, the
10 excavation information does get distributed to a lot of
11 the local municipalities. And that's almost a
12 region-by-region response to that. Several years ago,
13 there was a specific coordinated outreach effort to the
14 building inspectors around the country. So we are
15 reaching out to local building inspectors and their
16 local offices.

17 MR. KETCHAM: And I would add in addition --
18 this is Scott. I would add in addition when we wrote,
19 for example -- a good example is our national emphasis
20 program for excavation and trenching. If you read in
21 the NEP itself, we identified the areas to our
22 resources where we wanted them to focus.

1 And so the key that -- to this that I was
2 trying to make by asking Tim from the field to step up
3 is he just came from the field, and he knows what
4 they're doing, at least in the Region 1 area. And I
5 can tell you all 10 of our regions receive the same
6 message. And so I think it's uniform on how we're
7 reaching out and who we're reaching out to and which
8 stakeholders we're looking at to assist us.

9 And I will say that in our 10 regions, we have
10 some creativity there to -- I'm thinking outside the
11 box -- on other people that can help as well. And so I
12 -- I hope that message is getting out to as many people
13 as possible using our greater umbrella of our
14 stakeholders, participants like you here in the ACCSH
15 and in the community, within the construction
16 community, to hear these types of things and work
17 cooperatively with us because we'd rather prevent
18 something than come at it after an incident or an
19 untimely incident that occurs that results in an injury
20 or a fatality.

21 MR. SOKOL: Thank you, Scott. I appreciate
22 the answer. Thank you.

1 MR. CANNON: All right. Thank you, Scott.
2 You know, we are quite a bit over. And, you know, I
3 want to be sensitive to Sven's time here. If there are
4 any more questions, maybe we can hold those until the
5 end, you know, as far as the public is concerned.
6 ACCSH, of course, you know, welcome to ask questions.
7 But, you know, operator, if we could hold the public
8 questions, I think we'll all be around until the end,
9 until the public comment period. I think that would
10 help keep us on time.

11 We are currently scheduled for a 10-minute
12 break. But as I said, you know, I want to be sensitive
13 to Sven's time. So, Scott, I don't know what your
14 thoughts are as far as getting Sven on to go through
15 his presentation or take the 10-minute break now.

16 MR. KETCHAM: I'd say let's go ahead and get
17 Sven on and on our way.

18 MR. CANNON: All right. With that, our next
19 presentation will be from Sven Rundman. And he will
20 give us a update on respirable crystalline silica.

21 MR. RUNDMAN: All right. Thank you,
22 everybody. Thank you, Kevin. Appreciate that. Well,

1 let's just dive right into it here. I mean, Scott, you
2 gave a great update for the Construction Directorate
3 here. And this is just going to -- my presentation is
4 just going to highlight the -- just respirable
5 crystalline silica. So slide, please.

6 Let's just start. Let's just open the door
7 right now. We have a new silica compliance directive.
8 Woohoo. It's been a long time in working. Got a
9 little sidetracked with our -- OSHA's work with COVID.
10 But we finally have our directive out. And it's been a
11 question that -- not that -- not just in the
12 construction industry but the industry about how we are
13 really going to enforce the respirable crystalline
14 silica standard.

15 It came out, published on Thursday. And on
16 Friday was the press release that was published. So,
17 as you could see, there is -- it's quite -- you had the
18 chance to print that out. It's quite the voluminous
19 piece of work. And -- which also -- the reason why it
20 took so heavy amount of time is that there is a lot
21 into it. And this -- to highlight some of the
22 background to it.

1 As you can see, you know, again, the final
2 rule for respirable crystalline silica was published in
3 March of 2016 and -- for the construction industry
4 which became enforceable in September of 2017. And at
5 that point in October, you know, we had a lot of
6 questions of how it was we were going to enforce that.
7 Back in October of 2017, OSHA did issue the interim
8 enforcement guidance on how our compliance officers in
9 the field were going to enforce that rule.

10 With the directive now published, the --
11 enforcement guidance is now archived. We -- it's still
12 available on the -- will be still available on the OSHA
13 website in an archived document. But obviously the
14 silica compliance directive now is what is -- what we
15 would use as an enforcement.

16 The -- of course the standard applies to any
17 and all places where employee exposure is -- remains
18 above 25 micrograms per cubic meter and -- but is not
19 applicable where below that 25 under any foreseeable
20 condition. And we got questions about what -- any
21 foreseeable condition. Well, obviously we know that
22 engineering controls is a -- such as local exhaust

1 ventilation is a foreseeable condition that can fail.
2 So we would expect that if the standard at this point
3 in time requires relying on that local exhaust
4 ventilation to remain below 25, then obviously the
5 scope and application is still applicable for the
6 construction industry. Slide, please.

7 The easiest way we all know for construction
8 employers to comply with the standard is to follow
9 what's in Table 1, that employers are there. If an
10 employer wants to be really exempt from having to file
11 the -- to be -- to file the permissible exposure limit
12 or to do any exposure monitoring, they have to make
13 sure they fully and properly implement the engineering
14 controls, the work practices and -- protection that are
15 set forth in the particular task that they may be
16 doing.

17 If an employer chooses not to be -- fully and
18 properly implement those controls, then they are
19 required to conduct exposure assessments for the
20 employees engaged in those tasks and to make sure to
21 demonstrate they are above or below the PEO. Again, if
22 they are fully and properly following it, then they

1 don't have to conduct exposure -- and they'll
2 demonstrate compliance with PEO. Slide, please.

3 An employer chooses not to follow all the
4 elements of Table 1 for exposure monitoring and such,
5 then, in this case, they either have to choose
6 performance option or the scheduled monitoring option.
7 If an employer chooses the performance option, that
8 must begin before the work starts. But they can use
9 any combination of the air monitoring -- previous air
10 monitoring data they may have done. They can use the
11 objective data if they like or a combination of the
12 two.

13 But the -- whatever they are using must be
14 sufficient to characterize the employee exposure of
15 respirable crystalline silica. The other option is the
16 scheduled monitoring option, in this case, must be done
17 as soon as the work begins. Based upon the results of
18 that, using that option, if a -- if initial monitoring
19 is below the action level, then there is no additional
20 monitoring.

21 But as you can see by the slide, that if it's
22 between the action level or below -- or equal to

1 permissible exposure limit or above the permissible
2 exposure limit, there are sequences where the employer
3 must repeat that monitoring based upon either six
4 months or three months. We've gotten questions dealing
5 with what -- can I start with scheduled monitoring and
6 move to performance option? The answer is yes. It can
7 be done.

8 Again, in this case, you're relying on the
9 objective data you've gotten from the scheduled
10 monitoring. As long as it accurately provides
11 sufficient information to characterize employee
12 exposures, once they start off with scheduled
13 monitoring option and move to performance option if
14 they so choose to. Slide, please.

15 If an employer chooses to use objective data
16 as part of the performance options and such, it
17 includes data from an industry-wide survey. It
18 includes data from equipment manufacturers or trade or
19 maybe a professional association that can be working
20 with and -- or calculations based on the particular
21 composition, a particular substance that's being worked
22 with.

1 It must demonstrate that employee exposure
2 associated with a particular product or, in this case,
3 process, task or activity. And it must closely reflect
4 -- the information you are using must closely reflect
5 the conditions that your workers are being exposed to.
6 Or it can be useful -- or with higher exposure
7 potential than the processes, types of material,
8 control methods and such in the current -- in your
9 current exposure model. Slide, please.

10 So again, the easiest way for construction
11 employers to be compliant is to follow Table 1 where
12 the employer has fully and properly met all his
13 controls, work practices -- protections and there is no
14 violation. And you're still maybe having workers
15 exposed above permissible limit. Then there is no
16 violation of PEL itself. And also, you do not have to
17 assess exposure of employees engaged in the task.

18 But the employer has not fully and properly
19 implemented the controls as specified in the task for
20 Table 1. If OSHA is going to assess where the employer
21 is in compliance with the Paragraph D, again, which is
22 either used in the performance option or the schedule

1 monitoring option to determine what their exposure
2 levels are. And OSHA is going to conduct their own
3 sample at that point in time as necessary to determine
4 employee exposures, if they are at or above the batch
5 level or have they exceeded the permissible exposure
6 limit.

7 Okay. An employer has got the -- done their
8 assessments. They have the results. So now you have
9 to get that information to the workers so they can make
10 some choices themselves. A performance option
11 assessment period for notification begins when the
12 employer completes the assessment. And if a schedule
13 monitoring option, the period for notification begins
14 when employer receives the monitoring results.

15 So for the performance option to be considered
16 complete and the employer has characterized the
17 employee's time-weighted average exposures to
18 respirable silica based on the data either monitoring
19 or objective data or combination of the two. A
20 scheduled option notification begins when employer
21 receives monitoring results. And that notification
22 could be by phone, for instance, if you are using a

1 third party to do the air monitoring. And that third
2 party calls up an employer and says, "Hey. Here is the
3 results." That's when the time starts. The standard
4 doesn't provide for any additional time for
5 notification when it becomes -- it takes longer than
6 time permitted. And those results, once they are
7 provided to the worker, they must provide in writing
8 within 15 -- of course 15 days for -- or maritime, this
9 case, within five days, working days, for the
10 construction.

11 There is a written exposure control plan
12 required. Here, the employer must establish and
13 provide a written program and the number of items
14 included in that, task them, which expose those
15 employees, what controls are being used, the work --
16 engineering controls or the work practices or
17 protection, the description of housekeeping measures
18 that you are using to limit the employee exposures and
19 specifically for the construction industry, since it's
20 not a requirement for our regulated area, procedures
21 you are going to be using to restrict access to
22 particular areas.

1 There is that requirement within construction
2 to have a competent person. Must be suitably trained
3 and appropriate accountability and responsibility to
4 manage the exposure control plan. And the person must
5 be able to make frequent and regular inspection of
6 jobsites, materials and equipment. Now, there is
7 nothing in the standard which dictate -- back up,
8 please. Thank you. There is nothing in the standard
9 which specifically says what is frequent and regular.

10 That's going to depend on the type of jobs
11 being done, the tasks and materials. So it's up to
12 that competent person to determine what the best means
13 in which to make sure that they are doing -- they are
14 attending -- they are attending the jobsites frequent
15 enough for a particular task. Slide, please.

16 Housekeeping. When cleaning up dust, dry
17 sleeping and brushing is prohibited unless the wet
18 sweeping HEPA filter and vacuuming or other methods are
19 not feasible and to make sure that compressed air to
20 clean clothing is prohibited -- can use -- be used in
21 conjunction with a ventilation system which obviously
22 effectively captures the dust cloud or unless no

1 alternative method is feasible. This was pretty
2 difficult because obviously when you compress dust,
3 even though you may be having a vacuum system
4 associated with it here that it does potentially
5 provide additional workplace exposures to our workers.
6 And, in this case, while an operation may be under the
7 permissible limit when they start using the compressed
8 air, even with the ventilation system, it may cause
9 worker exposures to be higher than normal. Slide,
10 please.

11 Medical surveillance. On the construction
12 industry, you know, there is no set requirement. It's
13 not dealt with, the use of the permissible exposure
14 limit plus the number of days for employees who are
15 required to wear a respirator for 30 or more days a
16 year.

17 And any amount of time in a particular task,
18 even though it may be 15 minutes of time using a
19 respirator, that counts towards a full day or
20 determined if a medical surveillance or not to be
21 offered within 30 days of the assignment and every
22 three years for workers who contribute to -- the

1 trigger and cost -- there is no cost to the worker.

2 Slide, please.

3 Medical report, issued to the employee only.

4 But it must include what medical conditions employee
5 may have had. If there is any limitations in the type
6 of respiratory use and exposure to silica as well as
7 are there any recommendation for any specialist exam,
8 the -- the employer is going to get is the recommended
9 respirator limitations and if the employer consents and
10 recommend limitations on exposure to silica and the
11 recommended -- if an employee chooses not to have
12 included in their medical report to the opinion provide
13 approval for that, then there is no requirement for an
14 employer to provide -- exam if the employee chooses not
15 to let employer know of that particular situation.

16 Slide.

17 Communication of hazards, i.e., hazard
18 communication. It applies to all employees covered by
19 the standard. Employees should be -- employer should
20 be reviewing their hazard communication program to make
21 sure that bags of silica, things of that nature, are
22 properly labeled and to make sure safety data sheets

1 are available. Now, it has communication standard even
2 though particular standard -- in this case, the silica
3 standard deals with 20 -- a limit of action level 25
4 micrograms. Doesn't make a difference. If workers are
5 exposed even below that, the Hazard Communication
6 Standard is applicable. So employees need to make sure
7 -- engineering controls or practices being used and how
8 those can demonstrate how to protect them from the
9 hazards. Slide, please.

10 Many of you are wondering what's going on with
11 Table 1. Our director of standards and guidance folks,
12 as you well know, issued their request for information
13 as published in Federal Register in August 2019 and
14 closed in October. But currently right now --
15 assessing and analyze the information that was
16 received.

17 And obviously they are looking at what
18 additional controls for tasks that are currently on
19 Table 1 that can be upgraded or updated, looking at
20 what task can be added to that Table 1, as well as
21 allowing employers in this case for -- industry to be
22 covered to follow construction standards and additional

1 circumstances. Prior to the issuance now of the silica
2 compliance directive, there was a national emphasis
3 program that was issued back in February of this year.
4 This -- up until Fiscal Year '28, we temporarily
5 suspended the long-running -- program which began way
6 back in 2008.

7 If this is allowed, the change -- the wait
8 time to reissue the new NEP was to allow the employer
9 that significant time to become familiar with the new
10 requirements for the respirable crystalline standard --
11 silica standard. Slide, please. Under the National
12 Emphasis Program, obviously we're there to enforce the
13 2016 silica standards. And it targets those industries
14 with the greatest number of exposed workers.

15 We want to reduce or eliminate those exposures
16 in not just construction but also gen industry and
17 maritime. Part of the requirement with the National
18 Emphasis Program was there was -- for a three-month
19 compliance assistance prior to any program inspections
20 which of those companies that were listed -- that would
21 be listed have a specific inspection. Annually, we
22 have always performed about 2 percent of the federal

1 inspections. It turned out to be about -- between 600
2 and 700 inspections. It was the situation with COVID.
3 We have had a reduced -- it's a reduced number. So it
4 probably won't meet that 600 and 700. But we are --
5 have been making unprogrammed inspections dealing with
6 complaints and referrals and things of that nature
7 since the standard was in effect. Slide, please.

8 There is a number of silica compliance
9 assistance tools. There is a great small entity
10 compliance guide that highlights the requirements of
11 the standard. There are videos available and, in this
12 case, those dealing with some of the Table 1 tasks.
13 And there is a number of fact sheets that are available
14 to help be in compliance. Slide, please.

15 One of the agreements we did when the
16 standards came out was develop some frequently-asked
17 questions. And there is one specifically for
18 construction as well as ones for general industry and
19 maritime. Those are available on the respirable
20 crystalline silica topics page. And there is a wealth
21 of information dealing with the FAQs that have been --
22 that were received once the standard was issued that

1 were a main concern to those in the -- that industry.
2 Again, there is a number of fact sheets. And here is
3 just three that were -- have been published, one on
4 power tools, grinders for tasks other than mortar
5 removal and power saws used to cut fiber cement boards.
6 But there is a number of them -- a number of them that
7 may fit what type of work that your stakeholders may be
8 doing. Slide, please.

9 And here is the biggie. What standards have
10 we issued since the first and second quarter, in this
11 case, of Fiscal Year '20? You can see in the table on
12 the left are the top five federal standards that have
13 been in the construction -- that have been issued
14 dealing with respirable crystalline silica. The number
15 one item, noncompliance, was in Table 1. And then from
16 there, if they are not being compliant, 33 of those
17 inspections had -- employee exposure assessments were
18 cited.

19 In '21, they had issues with their written
20 exposure control plan. And that can be anywhere from
21 not having one to maybe missing elements within the
22 control plan, the employer knowledge and understanding

1 that employees are not being protected by basically the
2 communication of hazards and, of course, hazard
3 communication itself violations.

4 The table on the right, we broke down the
5 number of 39 violations. And I guess you say
6 unscientifically that the top five violations of Table
7 1, top ones -- we looked at the inspections that were
8 done. And from here, here is the top five areas where
9 in the description of a violation where had -- were.
10 Number one issues were the handheld power saw; second
11 of all, jackhammers and handheld chipping tools;
12 three, the handheld grinders for mortar removal; the
13 fourth, just general table and control measures where
14 we couldn't tell exactly in that violation which tool
15 was or task was being violated; and the fifth one being
16 the stationary masonry saws.

17 So we are out there issuing violations because
18 we're out there doing the inspections. And we are
19 issuing violations where appropriate. Slide, please.
20 And that highlights the respirable crystalline silica
21 compliance directive. Again, it's a monster. It's
22 120-something pages, but there is a wealth of

1 information. And hopefully the construction industry
2 will take that and look at it. And honestly, if you
3 have any questions, you know, feel free to call into
4 the Office of Health Enforcement. And we have
5 individuals on the staff which can help answer, you
6 know, specific questions.

7 And we may ask -- if it hasn't been answered
8 before or couldn't be or maybe it wasn't answered with
9 the frequently-asked questions, we can certainly -- and
10 we may ask you to write in a letter because your
11 question may be affecting other industries or other
12 tasks individually as well to help ensure that the
13 community as a whole is aware of maybe the concern and
14 how OSHA will enforce a particular area. With that,
15 turn it back to you, Kevin. So --

16 MR. CANNON: Thanks, Sven. A lot of good
17 information. You mentioned the RFI that's looking to
18 expand the task and possibly engineering controls
19 beyond what's currently on Table 1. Do you know where
20 that is at this point? You know, what has the
21 information and data suggested?

22 MR. RUNDMAN: At this point in time when I

1 contacted our guidance folks, they just mentioned that
2 they are assessing the information. And they are
3 assessing and processing which ones they want to
4 include to the table. So -- but they indicate which
5 ones that we're thinking about. They did not provide
6 that information to me.

7 MR. CANNON: Okay. Thank you. Any questions
8 from the -- my fellow ACCSH members?

9 MS. CAIN: Kevin, this is Chris Cain, Chris
10 Cain --

11 MR. CANNON: Yes.

12 MS. CAIN: -- employee rep. Just maybe if we
13 could put in a request that if there is any Directorate
14 of Standards and Guidance employees who will be
15 presenting and -- after the break that if they could
16 give us any more information on where they are with the
17 Table 1 modifications as a result of the RFI, that
18 would be good.

19 MR. CANNON: Yeah. And Scott, I'm not for
20 certain if you're aware if Ken or Juan or Janet, Deana
21 or Jennifer would be able to do that.

22 MR. KETCHAM: I do not know. This is Scott.

1 I do not know.

2 MR. CANNON: Okay. All right. Any other
3 questions?

4 MR. SOKOL: I have a question. This is Ron
5 Sokol, public representative.

6 MR. CANNON: Go ahead, Ron.

7 MR. SOKOL: You know, since our country is
8 facing a shortage of respiratory protection, have we
9 seen an uptick of lack of adequate respiratory
10 protection for people doing work exposed to silica just
11 in the sheer fact that they can't get those
12 respirators?

13 MR. RUNDMAN: This is Sven. We have heard
14 from the community that there are issues --
15 construction industry that there are issues with
16 achieving or trying to obtain, like, N95s, filtering
17 facepiece respirators. But there is a -- OSHA did have
18 a guidance developed which comes out with -- there are
19 other respiratory protection devices or different
20 classes of respirators that may be utilized of those
21 respirators that are available from other countries
22 where it meets the NIOSH certification information.

1 So if N95 is not available, maybe in other
2 countries, it's available as well as maybe having to
3 use elastomeric respiratory protection or if that
4 matter of power air purifying respirator. But overall,
5 we have -- while we have heard that there are concerns
6 about that that we have not outright heard that it
7 cannot -- they cannot get a respirator.

8 MR. SOKOL: Thank you.

9 MR. CANNON: This is Kevin, Kevin Cannon,
10 employer rep. Would those citations fall under the
11 Table 1 citations that you mentioned, the lack of --
12 the lack of or insufficient use of respiratory
13 protection?

14 MR. SOKOL: Well, if the task requires a
15 respirator, at that point in time, we would look at --
16 you know, that are they providing the appropriate
17 protection. So if we're not providing a respirator,
18 you know, we -- under the current situation, we would
19 probably -- the -- your office has discretion on
20 determining if they are in compliance or not and using
21 some other -- in this case like some other country's
22 respiratory protection.

1 MR. CANNON: Any other questions?

2 MS. DEPRATER: Kevin, can you hear me?

3 MR. CANNON: Yes, Cindy.

4 MS. DEPRATER: Okay, hi. This is Cindy
5 DePrater, employer rep. It's more of a comment on the
6 N95s. You know, one of the things that we have been
7 looking at is that one-way valve. And because --
8 during COVID, that N95 with the one-way valve would not
9 be protection against the virus because you could
10 actually breathe out if you're asymptomatic and
11 spreading or shedding the virus.

12 We have had to go to further protocols to say,
13 you know, if you have to use an N95 for silica or other
14 types of activities, you may have to wear additional
15 protection if you use the one that the -- that has that
16 valve. So just a point of clarification.

17 MR. CANNON: Thank you, Cindy. Any more
18 questions or comments for Sven from the -- my fellow
19 committee members? All right. Hearing none, I
20 appreciate your time, Sven. Look forward to additional
21 updates as, you know, the -- you know, the compliance
22 officers start utilizing the new directive. So

1 appreciate it. Thank you. And Scott, at this time, I
2 think we'll take the 10-minute break.

3 MR. KETCHAM: I am fine with a 10-minute
4 break.

5 MR. CANNON: All right. Well -- yeah, and
6 next up would be the PIP proposals. So if we could all
7 come back at 2:05 -- and we'll get started promptly.

8 MR. KETCHAM: Thank you, Kevin.

9 MR. CANNON: Thank you.

10 (A brief recess was taken.)

11 MR. CANNON: All right. Thanks, everyone, for
12 your patience. Apologize for the extended break. We
13 are going to now get into the next session of the
14 agenda, which is a presentation on the proposal to
15 update the powered industrial trucks standard by Mr.
16 Ken Stevanus.

17 MR. STEVANUS: Thank you. All right.

18 MR. CANNON: Let me stop. Before we get into
19 Ken -- I'm sorry, Joey. Before we get into Ken, ACCSH
20 counsel has, you know, announcement to make.

21 MR. GILLILAND: This is Joey Gilliland, ACCSH
22 counsel. I just want to make a clarification from

1 earlier in the meeting during Scott Ketcham's
2 presentation, the construction update. Some members of
3 the committee had follow-up questions to submit to the
4 agency. And I just wanted to clarify that those
5 questions for follow-up after the meeting should be
6 presented to the chair, and the chair will submit them
7 to the agency on behalf of the committee. But
8 individual members will not submit follow-up questions
9 directly to the agency. That's all.

10 MR. CANNON: Thank you, Joey. And now -- I'm
11 sorry about that. I will turn it over to Ken.

12 MR. STEVANUS: All right. Good afternoon. As
13 you heard, my name is Ken Stevanus. I'm with the
14 Directorate of Standards and Guidance in the Office of
15 Engineering Safety. And with me today is Mr. Juan
16 Lopez with the Office of the Solicitor, who is the
17 project attorney. And he may chime in at times as well
18 as some other people from my office.

19 I want to thank you altogether for coming
20 together and taking the time to listen to me once again
21 present to you another OSHA consensus standard update
22 and project. I have talked with the committee in the

1 past regarding OSHA standards for signage, eye and face
2 protection, as well as head protection. Of course,
3 this time around, OSHA is proposing to update the
4 consensus standards incorporated by reference in its
5 powered industrial truck standards for both
6 construction and general industry. Next slide.

7 Okay. OSHA is proposing to update the
8 incorporation by reference in its powered industrial
9 truck standards by referencing the design and
10 construction provisions of the most recent relevant
11 national consensus standards from ANSI/ITSDF. OSHA is
12 also proposing to allow the use of future national
13 consensus standards that employees can show are at
14 least as effective as those incorporated in its
15 standards. Next slide.

16 OSHA has an ongoing project to update its
17 standards to reflect current consensus and national
18 standards by updating or revoking outdated national
19 consensus standards incorporated by reference and/or
20 updating regulatory text that was directly adopted from
21 the same outdated national consensus or industry
22 standards. Next slide.

1 OSHA was approached and requested by the
2 Industrial Truck Association to update the design and
3 construction requirements of ANSI B56.1-1969 in OSHA's
4 powered industrial truck standard and to -- their
5 latest version of the ANSI/ITSDF B56.1 standard, just
6 as OSHA has done in the past with other standards like
7 eye and face protection. Next slide.

8 OSHA's general industry powered industrial
9 truck standard requires that trucks acquired and used
10 by an employer meet the design and construction
11 requirements in Part 2 of ANSI B56.1-1969 and that
12 trucks bear a label or other identification mark
13 indicating approval by a testing laboratory. Next
14 slide.

15 OSHA's powered industrial truck standard for
16 construction requires high-lift rider trucks to be
17 equipped with overhead guards as defined in Part 2 of
18 ANSI B56.1-1969 and that trucks in use meet not only
19 the applicable design and construction requirements, as
20 in general industry standard, but also the requirement
21 stability, inspection, testing, maintenance and
22 operation of the same ANSI standard. Next slide.

1 When OSHA initially adopted its powered
2 industrial truck standard, it incorporates the design
3 and construction requirements of the ANSI B56.1-1969,
4 which, at the time, was called Safety Standards for
5 Powered Industrial Trucks. ANSI has, of course,
6 updated this standard numerous times over the years.

7 In addition, ANSI has reorganized its B56
8 consensus standards by dividing the original scope of
9 ANSI B56.1 into several different B56 volumes. These
10 include -- next slide -- B56.1, which is now called
11 Safety Standards for Low-Lift and High-Lift Trucks;
12 B56.5, Safety Standard for Driverless, Automated Guided
13 Industrial Vehicles and Automated Functions of Manned
14 Industrial Vehicles; and B56.6, Safety Standards for
15 Rough Terrain Fork Trucks. Next slide.

16 When the scope -- while the scope of
17 ANSI/ITSDF B56.1 has changed, the original scope of
18 OSHA's powered industrial truck standards have not
19 changed, and it still covers powered industrial trucks
20 covered in the original adopted ANSI B56.1-1969
21 standard. This is consistent with an OSHA
22 determination it made in 1998 rulemaking where OSHA

1 updated the training requirements in its powered
2 industrial truck standards. And that rulemaking, OSHA
3 mentioned that the scope of a final standard is broader
4 than that of a ASME B56.1-1993 standard which covers
5 only some types of powered trucks. The final OSHA
6 standard covers all types of powered trucks specified
7 in its original standards. Next slide.

8 Therefore, OSHA is proposing to update the
9 incorporation by reference in its powered industrial
10 truck standards for general industry and construction
11 to include the design and construction requirements for
12 powered industrial trucks contained in B56.1, B56.5 and
13 B56.6. Next slide. The proposal will only update the
14 design and construction requirements of the ANSI B56
15 standards to be incorporated by reference. Unlike
16 OSHA's general industry powered industrial truck
17 standard, OSHA's construction powered industrial truck
18 standard also references the stability, inspection,
19 testing, maintenance and operation provisions as
20 defined in the ANSI B56.1-1969 standard.

21 This proposal will still require the powered
22 industrial truck standard for construction to follow

1 the requirements of ANSI B56.1-1969 for the stability
2 inspection testing maintenance and operation sections.
3 Next slide. The proposal will update the incorporation
4 by reference of the B56 standards in two ways: powered
5 industrial trucks manufactured before the date of the
6 publication of this final rule and powered industrial
7 trucks manufactured after the date of publication of
8 this final rule. Next slide.

9 For powered industrial trucks manufactured
10 before the date of the final rule, employees may
11 continue to follow ANSI B56.1-1969 or may follow the
12 design and construction requirements of the applicable
13 ANSI B56 versions that were published between 1969 and
14 2019. For instance, if an employer chooses to follow
15 the design and construction requirements of the
16 applicable B56 version published between 1969 and 2019,
17 say, for a high-lift rider truck manufactured in 1995,
18 they then would follow the ANSI B56.1-1993 standard if
19 they so choose. Next slide.

20 For powered industrial trucks manufactured
21 after the date of the final rule, trucks are required
22 to meet the design and construction requirements of the

1 current applicable ANSI/ITSDF B56 standards. That is
2 B56.1(a)-2018, B56.5-2019 and B56.6-2016. Next slide.
3 The proposal is also looking to add an alternative
4 provision that will allow employers who use powered
5 industrial trucks manufactured in accordance with
6 future versions of standards to be able to follow the
7 latest standard. Consensus standards are regularly
8 updated. And it is difficult for OSHA to provide
9 timely correspondent -- corresponding updates through
10 notice and comment --

11 This proposal will not only update the
12 references to the ANSI/ITSDF B56 standards but will
13 allow employees the ability to rely on updated versions
14 of these standards if they choose to, if they can
15 demonstrate that the powered industrial truck was
16 designed and constructed in accordance with a different
17 consensus standard that provides employee protection
18 equal or greater than the applicable ANSI/ITSDF B56
19 standards incorporated by reference.

20 OSHA anticipates that the consensus of
21 developing bodies will aid in this determination, as
22 they want their latest versions used. Standard

1 developing bodies already have summaries of changed
2 section in each new version, indicating usually in the
3 margins where changes from previous versions were made.
4 They also list in there summaries sections which they
5 consider significant. Next slide.

6 This will give employers flexibility to comply
7 with OSHA's role in the future while still providing
8 equal or greater protection to employees using powered
9 industrial trucks if they so choose. Next slide. I
10 want to thank the committee again for taking the time
11 to listen to me and for your consideration of this
12 proposal that updates the incorporation references and
13 OSHA's powered industrial truck standards.

14 We believe this proposal will increase worker
15 safety and allow employees greater flexibility to
16 comply with OSHA's powered industrial truck rules
17 without worrying about committing a de minimis
18 condition. Hopefully you had no questions. But we
19 will do our best to answer any you do have. Thank you.

20 MR. CANNON: Thanks, Ken, for all the
21 information. And --

22 MR. STEVANUS: I know that was a lot.

1 MR. CANNON: It was. And you covered it
2 pretty speedy. This is Kevin Cannon, employer rep. I
3 just have two questions. You mentioned, you know,
4 somewhere towards the end of the presentation that the
5 employer -- you know, if they want to comply with
6 future standards would have to do -- demonstrate
7 compliance. And I think you may have touched on it but
8 I missed it. How can they go about demonstrating that?

9 MR. STEVANUS: Well, we would -- one, would
10 leave that up to them. But we're hoping and we are
11 anticipating that the standard developing bodies will
12 help them with that. When they do update these
13 standards, they do point out where changes were made.
14 And it wouldn't take much, we are hoping, for them to
15 include information about how that change affects the
16 safety of a truck. And again, it's not a requirement.
17 They don't have to follow the -- versions. It's an
18 option. They can continue just to follow the current
19 incorporated by reference of those standards. So it's
20 not --

21 MR. CANNON: Well --

22 MR. STEVANUS: -- that we're forcing anybody

1 to do. We're just trying to be a little proactive in
2 the future to give them the option to look at the newer
3 versions if they so choose.

4 MR. CANNON: Okay. And help me understand
5 this a little better. The design and construction
6 standard, that's, you know, primarily geared towards
7 manufacturers; correct?

8 MR. STEVANUS: That is correct. When we
9 adopted the standard for general industry, that's the
10 only part we adopted. I do know that in construction
11 they did adopt some of the other sections such as
12 stability and maintenance and such.

13 MR. CANNON: Okay. So when -- you know, being
14 an end user, you know, we have contractors. Our
15 employers have no role in the design and construction
16 of a standard. But we would still be responsible for
17 demonstrating compliance.

18 MR. STEVANUS: Well, as long as your -- if
19 your truck was manufactured in accordance with one of
20 those standards which they are usually labeled with,
21 you're fine. We are not -- at this point, we're -- all
22 we're doing is giving you options to use more versions

1 of these same standards that are already incorporated
2 by reference in our standards.

3 MR. WHEELER: Kevin, this is Wes.

4 MR. CANNON: Wait. I have one more question,
5 Wes. And then my next question is, you know, it was
6 timely that the reg agenda came out yesterday. And I
7 understand that, you know, this proposal is separate
8 from the RFI that was issued in March of 2019. Are you
9 able to give the committee an update on where, you
10 know, that -- what's the status of that RFI. And in
11 that RFI, you know, it's talking about location of use,
12 training, among other things.

13 MR. STEVANUS: Yes. And of course that -- and
14 I don't remember the date. That docket has closed.
15 But, I mean, we got -- and I don't remember how many
16 comments we received, but they are being analyzed. And
17 a determination is being made on what we should do, if
18 anything. You know, and part of that is the -- is not
19 just for consensus updating obviously. That is the --
20 that RFI was based to determine whether we should
21 update the entire powered industrial truck standards
22 for both general industry and construction. And that

1 would include, at that time, you know, updating other
2 provisions such as stability and maintenance and such.

3 MR. CANNON: Okay. Thank you. I'm sorry,
4 Wes. Wes Wheeler?

5 MR. WHEELER: Yes. Wes Wheeler, employer rep
6 for the National Electrical Contractors Association.
7 After listening to this proposal that you -- that you
8 put on for us today and also referring back to a
9 comment that was in Scott Ketcham's presentation
10 earlier today, what's your suggestion of what we're
11 proposing here is that you update the standards for
12 construction and design for the powered industrial
13 truck. And I understand that it now includes
14 additional styles or additional models of a powered
15 industrial truck that would follow into that.

16 One question I have to ask is how is that
17 going to relate now is if a company does purchase a
18 piece of equipment or rents a piece of equipment that
19 is going to be built according to the new standard. It
20 will then be a requirement that the employer is going
21 to have to train whoever that employee is that's using
22 that piece of equipment on the construction and design

1 characteristics of that. With that being said, I also
2 want to know how is this going to relate. I mean,
3 we've already seen a letter of interpretation
4 considering the mobile elevated work platforms, as was
5 mentioned earlier. And if this goes through and you
6 modify that to except it, then, once again, ANSI has
7 updated a lot of other documents where we look for
8 compliance with the latest standards that have been
9 developed.

10 As an electrical contractor, we are familiar
11 with the National Electrical Code. It goes all the way
12 back to 1973 references in the standards as well. And
13 some of those have been updated over the years. But
14 it's one of the things that, you know, we need to make
15 sure that if you're going to incorporate this into the
16 standards, you know, there is a possibility we may have
17 to have two or three different training programs
18 depending upon what equipment is being used.

19 MR. STEVANUS: The design and construction
20 requirements are not user end. So there would be no
21 new or any kind of other training based on the design
22 and construction of powered industrial trucks that are

1 incorporated in the standards. The incorporation by
2 reference is only to make sure that powered industrial
3 trucks bought are ones that are designed to these
4 incorporated references, incorporated by reference
5 standards.

6 There is no -- that's why we're only adopting
7 the user or, I mean, the manufacturer section of these
8 standards. There are no user parts being adopted so
9 there would be no new -- I mean, you still -- as any
10 type of new truck comes in, operators have to be
11 trained on that particular piece of equipment. But
12 there are no new requirements or anything involved for
13 the user with this.

14 MR. WHEELER: Thank you very much.

15 MR. LOPEZ: This is Juan Lopez. I would just
16 like to chime in real quick if I may.

17 MR. CANNON: Yes, please.

18 MR. LOPEZ: So, yeah, I just want to clarify
19 sort of the broad picture here. The -- this NPRN for
20 powered industrial trucks -- our aim is to bring a
21 greater category of industrial trucks into compliance
22 with OSHA standards. Under the status quo, you know,

1 we are -- we have outdated 1969 version of the ANSI
2 standard. And that's a very low bar for, you know, the
3 trucks to be manufactured under those provisions. And
4 so --

5 MR. STEVANUS: Right.

6 MR. LOPEZ: -- what we're doing is trying to
7 update and allow flexibility for employers to have
8 trucks that may be manufactured to other versions of
9 ANSI standards. And so we're trying to add flexibility
10 on one hand and also account for sort of future
11 versions of those construction standard. And so all
12 we're doing really is instead of having employers that
13 may technically be in violation of a -- and that may be
14 de minimis for the technical violation of the standard
15 to bring them into compliance by giving them greater
16 flexibility. So I just want --

17 MR. STEVANUS: That is correct.

18 MR. LOPEZ: -- remind everyone of that.

19 MR. STEVANUS: Yeah.

20 MR. CANNON: Okay.

21 MR. STEVANUS: That is --

22 MR. CANNON: Thanks.

1 MR. STEVANUS: -- correct. That's the whole
2 purpose of the consensus standard updating projects
3 that have been. Now I would like to say it was a
4 little easier when it was like eye and face protection
5 because, you know, you could say -- you can continue
6 with the 1969 version, 2018, or, I mean, use the 2018.
7 It was pretty safe to say that eyeglasses or face
8 protection that was made back in 1990 aren't available
9 anyway.

10 It's a little more complicated here with
11 powered industrial trucks because the truck that was
12 manufactured in 1990 is still in use or can be, which
13 is why we have -- we're allowing users to use all the
14 versions of the ANSI B56.1 or .5 or .6 between 1969 and
15 2019.

16 MR. CANNON: Okay. Thank you, Ken and Juan,
17 for that clarification. So basically if I understand
18 it correctly, what you're saying now is if a contractor
19 has a powered industrial truck that is manufactured in
20 accordance to, say, the 2018 ANSI standard, that is
21 technically a violation.

22 MR. STEVANUS: Technically we would -- we

1 could consider that a de minimis condition. I don't
2 think we use "violation" in there. We use "condition"
3 but, yes, technically, you know, you would be out of --
4 out -- out of -- in violation. You know, nothing more
5 would come of it because, you know, it's -- you know,
6 this is de minimis violation or condition again. But,
7 yes, this is just to avoid and to give the opportunity
8 for employers not to be in that de minimis condition
9 and, at the same time, it gets the newer versions out
10 there which, I think, everybody would agree should be
11 out there for employers to look at and use.

12 MR. CANNON: Okay. Thank you. Any other
13 questions from --

14 MR. EARNEST: Yeah.

15 MR. CANNON: -- the ACCSH members?

16 MR. EARNEST: Yeah. Kevin, this is Scott
17 Earnest, federal rep. I got a question. The question
18 is in the newer ANSI standards, is there language in
19 there that addresses carbon monoxide poisoning because
20 I know it's an issue, especially for gasoline-powered
21 industrial trucks. And I got a call with the EPA as
22 recently as last week. They contacted us because they

1 are seeing some very significant problems with people
2 getting poisoned and died from -- dying from carbon
3 monoxide with these vehicles.

4 MR. STEVANUS: I know those -- that's the kind
5 of question that might have to check with ANSI on and
6 ITSDF on. But I know I've seen stuff about carbon
7 monoxide in them. But I -- you know, at this point, I
8 don't think I could help much with that answer. I
9 think that would be more appropriate for the committee
10 itself.

11 MR. CANNON: Thank you.

12 MR. STEVANUS: I can say, though, that that
13 kind of --

14 MR. EARNEST: if it's not incorporated in the
15 ANSI standards -- and I haven't seen the ANSI
16 standards. But if it's not, I mean, I think that if
17 you are updating OSHA standards for this, you ought to
18 take that into consideration because it's definitely a
19 significant issue.

20 MR. STEVANUS: And that's -- I was just
21 getting ready to try to say, you know, with the RFI, we
22 requested information. If that kind of information --

1 hopefully you submitted a comment on that. If you
2 didn't, you know, it doesn't mean that we wouldn't look
3 at that issue. I'm sure we would. And in addition, as
4 that -- if we were to look at updating the powered
5 industrial truck standards, the whole standard, not
6 just the incorporation by reference, that would
7 definitely, I'm sure, be an issue we would take up.
8 And it would be presented out there, especially if
9 there is a lot of actions involving it that you are
10 saying there is.

11 MR. EARNEST: Yes. So just very quickly, the
12 newer ANSI standard, for example, B56.1(a)-2018, does
13 have provisions in there about carbon monoxide. But
14 those are --

15 MR. STEVANUS: Yes.

16 MR. EARNEST: -- user requirements.

17 MR. STEVANUS: Right.

18 MR. EARNEST: At that point, it's kind of out
19 of our -- you know, outside the scope of this
20 particular rulemaking.

21 MR. STEVANUS: Yeah. And that's what I said.

22 I know it's in there, but I don't know the details of

1 it because, at this point, that's not something we have
2 been focusing on. But I -- like I said, I'm sure if
3 the result of this -- the past RFI -- we requested
4 information on powered industrial truck standards. And
5 we decided at some point that we're going to update
6 these rules or whatever it had to be. I'm sure carbon
7 monoxide would be something that would be involved.

8 MR. EARNEST: Okay. Thank you.

9 MR. SOKOL: Kevin, this is Ron Sokol, public
10 representative. I had one question, really two
11 questions on this proposal.

12 MR. CANNON: Go ahead, Ron.

13 MR. SOKOL: My first question is who makes the
14 determination of the employee protection being equal or
15 greater than the previous version? Is that OSHA? Is
16 that the employer? Is that the manufacturer? How is
17 that determined, first off? That's my first question.
18 Then I have a follow-up to that.

19 MR. STEVANUS: Well, at this point, like I had
20 mentioned, we're -- it's -- we're going to again -- the
21 employer has the option to determine this if he chooses
22 or she chooses. We would expect them, at that point,

1 to show that something is as protective as it was
2 before or at least as protective or better. We are
3 anticipating that the consensus bodies will help with
4 that when they write the new standards. And I'm sure
5 when -- if -- when and if that was an issue with an
6 OSHA compliance person that would -- it would -- they
7 would also take what was presented to them and work
8 from there.

9 I -- it's -- it is -- it is -- this is a new
10 concept for us where -- so these are some questions
11 that -- when we put this notice of federal rulemaking
12 out, that is something that we are asking along with
13 this notice of proposed rulemaking, you know, how do --
14 how do -- how do you see this working, what do you
15 think this will work. Will it work? You know, this is
16 a new concept for us because we are -- you know,
17 because like I said, OSHA is constantly behind the ball
18 when it comes to updating these. And we're trying to
19 figure out a way not to always be behind the ball. And
20 this -- like I said, this is a new concept for us.

21 MR. SOKOL: Well, I fully applaud your efforts
22 for this. And I just want to make sure that -- you

1 know, so I guess it's a combination between the
2 manufacturer and the employer that would have to
3 determine that the -- the design and construction of a
4 powered industrial truck does provide at least equal or
5 greater value. And --

6 MR. STEVANUS: Right.

7 MR. SOKOL: -- my issue with it would be, you
8 know, with many employers wanting these powered
9 industrial trucks to be multi-use equipment where they
10 are looking for them to do additional hoisting and
11 stuff, I'm just concerned about a situation where --
12 where an employer would modify a manufacturer's powered
13 industrial truck for some type of a hoisting or lifting
14 apparatus that they have come up with in a way to fit a
15 unique need that they have and then possibly then have
16 their own, you know, professional engineer look at it
17 or their own mechanic look at it.

18 And they, themselves, determine that, yeah, I
19 think that that provides equal or greater value
20 protection when, in fact, it doesn't address a whole
21 bunch of the other manufacturers' issues of stability
22 and center of gravity and all those other things that

1 can cause an incident with a powered industrial truck.
2 So that would be my only concern, is when you get into
3 the situation of people looking to enter into this kind
4 of design and construction issue of the truck itself to
5 have it be multifunctional.

6 MR. STEVANUS: Right. You know, I would
7 imagine to -- you know, if an employer said, hey, I got
8 this that shows that it's spectacular but OSHA
9 compliance officer looked at it and there were some
10 issues, you know, it would -- I'm sure at that point,
11 there would just be some discussion or -- you know, I
12 don't know. Again, that's a good question and a --
13 we'll have to see how that, you know, works out.

14 MR. SOKOL: Well, I would imagine that the
15 manufacturer of that would go ahead and have some
16 product liability protections on themselves, you know,
17 from a liability standpoint. But in this -- from an
18 OSHA standpoint that's got to be maybe a little
19 difficult to sort out, I would imagine. So -- but I do
20 applaud your efforts to bring this all into the current
21 versions of this and to separate it into the three
22 categories that we have and still ensuring employee

1 protection of equal or greater value. So thank you for
2 your efforts.

3 MR. STEVANUS: Okay. Thank you.

4 MS. CAIN: Kevin, Chris Cain, employee rep
5 with a question.

6 MR. CANNON: Yes, Chris?

7 MS. CAIN: The -- I think the elimination of
8 the de minimis condition documentation would be good if
9 employers are complying with future version. But I
10 just was curious if you had any views on how this
11 proposed rulemaking would impact the use of powered
12 industrial trucks for lifting personnel that's now
13 covered under 1926.602(c)(1)(A)(iv), the use of the
14 rough terrain forklifts that are very common and
15 dangerous. And any impacts in safety in those regards,
16 or are -- is this rulemaking not -- are those issues
17 outside the scope of this rulemaking?

18 MR. STEVANUS: Those issues are outside the
19 scope of this rulemaking. Again, all we're doing is
20 incorporating the latest ANSI B56 versions for the
21 design and construction part. That issue you just
22 mentioned would obviously be one that the -- if the RFI

1 makes a determination to do something would be
2 something -- would be handled in that future
3 rulemaking.

4 MS. CAIN: Thank you for that clarification.

5 A PARTICIPANT: I will say -- can I add that
6 we are incorporating by reference the new entity B56.6,
7 which is related to a rough-terrain forklift truck. So
8 I know there is some questions about in the
9 construction context, those kind of -- that kind of
10 equipment being out there. And this more clearly
11 brings those into the fold.

12 MS. CAIN: Okay. Thank you.

13 MR. CANNON: Thank you, Chris. Any more
14 questions from the ACCSH committee? All right. I
15 think Ken came looking for a recommendation from ACCSH
16 as to how to proceed. Do we want to discuss that as a
17 committee? Does anyone want to enter a motion?

18 MS. CAIN: Kevin, this is Chris. I'll do it
19 if nobody else will. I'm trying to --

20 A PARTICIPANT: How are we going to phrase the
21 motion?

22 MS. CAIN: Okay.

1 A PARTICIPANT: The phrasing --

2 MS. CAIN: So the motion would be ACCSH
3 recommends that OSHA publishes the planned notice of
4 proposed rulemaking to revise and update the
5 construction industry standard for powered industrial
6 trucks under 29 CFR 1926.602.

7 MR. STRIBLING: Mr. Chairman, this is Chuck
8 Stribling. I have a question.

9 MR. CANNON: Yes, sir?

10 MR. STRIBLING: Before we can -- for that
11 motion, is that greater than the scope of presentation?

12 MR. CANNON: Chris, can you reread your
13 motion, please?

14 MS. CAIN: I can try. The motion will be that
15 ACCSH recommends that OSHA publish the planned notice
16 of proposed rulemaking to revise and update OSHA's
17 construction industry standard for powered industrial
18 trucks, 29 CFR 1926.602, as discussed in the draft --
19 I'm almost there -- as described in the draft proposed
20 rule provided to the committee. Does that narrow the
21 scope enough?

22 MR. SOKOL: Hey, Chris. This is Ron Sokol,

1 public representative. I think if you would just
2 include the words "update the design and construction
3 requirements of powered industrial truck standards,"
4 that would limit it to just what we talked about in the
5 design and the construction of the equipment and not
6 get into a lot of the other provisions that we had
7 discussed.

8 MS. CAIN: Can we just modify my motion based
9 on Ron's suggestion, or do I need to say it again?

10 A PARTICIPANT: Kevin?

11 MR. CANNON: Joey?

12 MR. GILLILAND: One second. So you can -- if
13 you'd like to restate your motion updated with Ron's
14 update or I can attempt to if you prefer.

15 MS. CAIN: I'll try. So the motion would be
16 ACCSH recommends that OSHA publishes the planned notice
17 of proposed rulemaking, updating OSHA's construction
18 standards for powered industrial trucks, 29 CFR
19 1926.602, related to the design and construction
20 requirements of the standard.

21 MR. CANNON: All right. Is there a second?

22 MR. SOKOL: Ron Sokol, public representative.

1 I'll second that.

2 MR. CANNON: Any further discussion? All
3 right. Hearing none, I think it's time to vote. And
4 we'll do so by roll call. Chuck Stribling?

5 MR. STRIBLING: Yes.

6 MR. CANNON: Richard Tessier?

7 MR. TESSIER: Yes.

8 MR. CANNON: Chris Cain?

9 MS. CAIN: Yes.

10 MR. CANNON: Chris Fought?

11 MR. FOUGHT: Yes.

12 MR. CANNON: Fravel Combs?

13 MR. COMBS: Yes.

14 MR. CANNON: Cindy DePrater? I'll come back
15 to Cindy.

16 Scott Mabry?

17 MR. MABRY: Yes.

18 MR. CANNON: Wes Wheeler? I'll come back to
19 Wes.

20 Greg Sizemore?

21 MR. SIZEMORE: Yes, Mr. Chairman.

22 MR. CANNON: Mark Mullins?

1 MR. MULLINS: Yes.

2 MR. CANNON: Palmer Hickman?

3 MR. HICKMAN: Yes.

4 MR. CANNON: Randall Krocka?

5 MR. KROCKA: Yes.

6 MR. CANNON: Scott Earnest?

7 MR. EARNEST: Yes.

8 MR. CANNON: Ron Sokol?

9 MR. SOKOL: Yes.

10 MR. CANNON: All right. Coming back to

11 Cindy --

12 Wes?

13 Wes and Cindy, are you having audio issues?

14 If so, could you notify through the chat? All right.

15 Wes is having audio issues. And he voted in favor.

16 Cindy?

17 MS. DEPRATER: Yes.

18 MR. CANNON: All right. And Cindy was in

19 favor. So motion passes unanimously. So I think you

20 got what you're looking for, Ken.

21 MR. STEVANUS: Yes. Thank you very much.

22 MR. CANNON: Thank you.

1 MR. KETCHAM: Kevin, could you read the --
2 what we -- what the ACCSH just voted on just so that
3 Joey Gilliland --

4 MR. CANNON: Oh, for the record.

5 MR. KETCHAM: -- has that?

6 MR. CANNON: Okay, yes.

7 MR. KETCHAM: Yes, please.

8 MR. CANNON: Yes. The advisory committee just
9 voted in favor of OSHA moving forward with their
10 proposed rule to update the construction design and
11 construction standards in the powered industrial truck
12 requirements of 1926. And it was a unanimous vote.

13 MR. KETCHAM: Thank you. This is Scott.

14 MR. CANNON: Thanks, Scott.

15 All right. Next we have a presentation,
16 scheduled presentation, on a proposal to update the
17 Hazard Communication Standard to align with GHS. Yeah.
18 Given the time that we have now, Scott, I'm going to
19 ask you to -- is it -- you know -- and I hate to have
20 wasted the time of Janet, Deana and Jennifer. But is
21 it necessary that we go through the slides and move to
22 a vote immediately?

1 MR. KETCHAM: They have prepared a
2 presentation to describe the rule. And for the public,
3 Joey, can you weigh in on that?

4 MR. GILLILAND: I think it would be best to do
5 the presentation.

6 MR. CANNON: Okay.

7 MR. KETCHAM: I would think so too.

8 MR. CANNON: Okay. Well, with that, I will
9 turn it over to Janet, Deana and Jennifer.

10 MS. CARTER: Thank you so much and good
11 afternoon. We will try to be brief. We'll try to be
12 as quick as possible and thorough. My name is Janet
13 Carter. Thank you for the opportunity to talk with you
14 today. I am a senior health scientist in the
15 Directorate of Standards and Guidance at OSHA. And I
16 and my colleagues, Deana Holmes and Jennifer Lawless,
17 will present to you today on some of the proposed
18 changes to the update of the Hazard Communication
19 Standard. Next slide, please.

20 So just a brief background. What is GHS? So
21 the GHS was finalized in 2002 as a way to harmonize
22 elements of hazard communication such as SDS's and

1 labels, as well as providing unifying classification
2 system of chemicals based on their intrinsic physical
3 and health-related hazards. However, the idea was born
4 much earlier than 2002. And it really began in 1956
5 with the U.N. Economic and Social Council Committee of
6 Experts on the transport of dangerous goods, which is
7 now called the TDG.

8 And it's continued into the 1990s with the
9 work of the International Labor Organization and the
10 Organization for Economic Council -- sorry -- the
11 Organization for Economic Cooperation and Development.
12 And it was a way to kind of level the playing field
13 across the global community and provide an
14 internationally harmonized system to convey information
15 to workers, consumers and the general public on the
16 physical, chemical and environmental effects of
17 exposure to hazardous chemicals.

18 To be clear, OSHA really has been a leader
19 throughout this process. I'll talk about the 1983
20 standard in just a minute. But it really started
21 before that. And this -- and just to let you know, the
22 GHS -- it's not a model regulation, but it's a

1 framework for adoption by regulatory bodies across the
2 globe. And this is a tripartite agreement between
3 industry, labor and government.

4 And there are three basic areas -- focus, as I
5 said, classification of physical hazards,
6 classification of health and environmental hazards.
7 And there was a hazard communication element to it.
8 This is supposed to be a living document. It is
9 updated every two years. We are currently working on
10 Revision 9, which should be published in 2021, July
11 2021.

12 But because of the pandemic -- I mean, we're
13 still hoping that things will -- will stay on track.
14 So next slide, please. So the OSHA Hazard
15 Communication Standard was first promulgated in 1983.
16 And it was updated in 1994. And it was known as the
17 right to know what the hazard communication -- what the
18 hazards are in workplace. So it was a really big deal
19 when it was published. In 2012, OSHA updated the
20 Hazard Communication Standard to align with the GHS,
21 which, at the time of the NPRM was in its third
22 revision.

1 Now, the biggest updates to the HCS came
2 through a more systematic approach to hazard
3 classification, more standardized and robust workplace
4 labels, changes to SDS's and training. Safety data
5 sheets were changed to the international 16-section
6 format, which closely aligned with the ANSI format.
7 And OSHA requires and enforces Sections 1 through 11
8 and Section 16.

9 Now, under the 2012 update, as I said, the HCS
10 went from the 1994, the right to know, to really being
11 the right of workers to understand the information
12 regarding workplace hazards. And that was really
13 through more comprehensive information from SDS's,
14 labels and training. So the next slide, please --

15 Now, OSHA presented to ACCSH in September of
16 2008 the updates to align to the GHS. And OSHA
17 outlined the major changes to the 1994 update to the
18 proposed changes in 2009. Now, these included, like I
19 said, moving from the nine-section format to the
20 16-section format. And at that time, ACCSH recommended
21 OSHA move forward with the NPRM. And we are certainly
22 hoping that you will do that again today, which you

1 have heard -- we think are the advantage for this
2 rulemaking. Next slide, please.

3 So with this rulemaking, the basic framework
4 of the Hazard Communication Standard will remain the
5 same. This is really an update in several different
6 areas. And I'll talk about kind of the learnings that
7 we've had that we're trying to implement those through
8 the GHS and through our own rulemaking. So while we
9 talk about the changes to the Hazard Communication
10 Standard in more detail throughout the presentation,
11 OSHA really believes that the -- most of the changes in
12 cost impacting business will be borne by manufacturers.

13 But as we will discuss in more detail later,
14 the agency believes the impact to construction industry
15 will be in familiarization with the new standard,
16 training on any potential new hazards identified in the
17 workplace and making sure that SDS's and labels are
18 up-to-date as appropriate. The agency believes that
19 the changes being proposed are necessary to better
20 differentiate within the hazards as well as communicate
21 the hazard information to workers. There is really a
22 lot that we have learned about hazard communication.

1 And we feel that these changes will be incorporated in
2 this rulemaking and it will really help improve the
3 understanding that workers have about the hazards that
4 they may be exposed to. So the next slide, please --

5 So the proposed Hazard Communication Standard
6 -- the proposal to the Hazard -- updating the Hazard
7 Communication Standard will improve and enhance worker
8 protection through providing additional clarification
9 of existing regulatory requirements. We have found
10 through implementation that there are -- may have been
11 misinterpretation. So we are hoping to fix those.

12 Incorporating new hazard classes and
13 categories as the GHS has evolved and moved forward, we
14 see where there -- new hazard classes need to be
15 developed. Improving and streamlining precautionary
16 statements -- and that's where I was talking about, you
17 know, we've really learned a lot about hazard
18 communication. And this is where that, I think, really
19 will see improvements through the hazard statements,
20 the precautionary statements. And, of course,
21 facilitating international trade through increased
22 alignment -- and I'll go over that a little more at the

1 very end of the presentation. So the changes being
2 proposed really can be put in four basic bins. And
3 we'll talk about each of these separately.

4 And the first one is really maintaining
5 alignment with GHS. And in this particular case,
6 soon-to-be Rev 7 -- we're on Rev 9. When we started
7 putting together the NPRM, we were on Revision 7. And
8 this is actually an advantage for us. And I'll tell
9 you that in a minute. So it's really designed to
10 maintain alignment with the GHS, to address specific
11 issues that were identified for implementation of the
12 Hazard Communication Standard in 2012.

13 And a lot of those are, like, through the LOIs
14 that we publish throughout the year. Designed to
15 better align with our most important trading partner,
16 Canada, through aligning with some of the provisions of
17 the -- of Canada's Workplace Hazardous Materials
18 Information System and to prove alignment with other
19 U.S. agencies such as EPA and DOC. I will turn it over
20 now to Deana and Jen to discuss these changes. So
21 please take it away, Deana.

22 MS. HOLMES: Thanks, Jen. I mean, thanks,

1 Janet. Sorry. The primary reason we are updating the
2 Hazard Communication Standard, again, is to maintain
3 alignment with the -- as Janet just previously stated
4 that we are now going to update to align with Revision
5 7. Some of the main changes to ensure that we are
6 aligned are in the following areas. And we'll be
7 talking more about these in depth throughout the
8 presentation.

9 For the health hazards, which are located in
10 Appendix A of the standard, most of the changes are
11 editorial in nature. However, they -- the main changes
12 to the appendix are revised health hazard definitions,
13 updated skin corrosion, irritation and serious eye
14 bandage, eye irritation factors. And then there are
15 some general updates to some of the hazard classes.

16 For Appendix B, which provides the
17 requirements for the physical hazards, the most notable
18 changes are to the flammable gas, desensitized
19 explosives and aerosol hazards. With regard to
20 Appendix C which indicates the required label elements,
21 we are proposing a few changes to some of the label
22 elements. And lastly, for Appendix C, which provides

1 the requirements for safety data sheets, there are
2 proposed updates to Sections 9 and Section 11. Next
3 slide, please.

4 Now, more specifically for the health hazards,
5 we are proposing to again revise all of the health
6 hazard definitions. The previous health hazards
7 definitions were not consistent with respect to form or
8 content. And many of the definitions were actually
9 taken directly out of the OEC test guidelines. So the
10 GHS subcommittee updated these definitions so they
11 would be more general. They would be more clear and
12 concise. And they would be neutral with respect to the
13 test guidelines.

14 OSHA is also proposing to update the skin
15 corrosion, irritation and serious eye damage/eye
16 irritation chapters. The GHS revised these chapters in
17 order to enhance clarity and user-friendliness in the
18 application of the criteria and also to change the
19 testing scheme to more of an evaluation scheme. This
20 suggests GHS, just like the Hazard Communication
21 Standard, is test method neutral. Now, work on these
22 chapters at the GHS was not complete before OSHA

1 published its updates to the Hazard Communication
2 Standard in 2012. We were able to get some of the
3 concept. But we didn't have the exact final version at
4 that time. So this update just incorporates all of
5 those modifications that were made to those chapters.
6 So now the changes do not propose any new provisions,
7 but they do ensure that the language and the format now
8 are consistent with what's in the GHS.

9 And OSHA also proposes some general updates to
10 several health hazard classes. For example, in Acute
11 Toxicity Chapter, we are proposing to clarify that both
12 data from animal test and human studies should be
13 considered in evaluating acute toxicity. And again,
14 this is just a clarification. There is no change to
15 the actual criteria. And now I'll turn it over to Jen
16 to discuss Appendix B. Thank you.

17 MS. LAWLESS: Thank you, Deana. Good
18 afternoon, everyone. So we are going to highlight some
19 of the bigger changes here in the physical hazard which
20 can be seen in pyrophoric and unstable gases, flammable
21 gases. We said that's explosives and aerosols. And
22 there is two -- there is two reasons why we're doing

1 this, one, mode and two, new chemical development.
2 What I mean by mode is the model regulations or TDG or
3 transport of dangerous goods. All of that is one
4 modal. And it was -- it was really imported from
5 transport into GHS.

6 And then we realized bringing them into the
7 GHS that we have other modes and sectors that need to
8 be addressed, such as use, handling and disposal. So
9 that's why we are updating these particular physical
10 hazards. And secondly, new chemicals are developed.
11 And we need to have better differentiation in the -- in
12 each of these hazard classes. Next slide, please.

13 So under the new proposal, these gases have
14 now been placed under flammable gases in Category 1A.
15 This changes the effect of the hazard classifiers.
16 This has nothing to do with downstream users. This
17 really is focused on the hazard classifiers. I really
18 want to bring that point home. So you should really
19 not be seeing a lot of changes or heavy lift for the
20 downstream users. As an example, the pyrophoric gas
21 was not captured in 2012. But it was pulled into GHS
22 after that. And then unstable gases were already

1 handled. But they really didn't -- they weren't
2 properly addressed to specificity that we found was
3 necessary here. Next slide, please.

4 So in the past, the Hazard Communication
5 Standard of 2012, it was noted that Flammable Gas
6 Category 1 was very broad. And it also led to either
7 over-warning or having the employers choose a chemical
8 that was a much higher risk. So the updated Hazard
9 Communication Standard that we are proposing has more
10 label information that would really help out and be
11 more specific to the individual hazard. Next slide,
12 please.

13 So here is what the proposal will look like.
14 You can see that flammable gas, pyrophoric and
15 chemically unstable gas is now entered into Category 1A
16 on the left-hand column. And all of the criteria are
17 found on the right-hand column. And then we go on to
18 have Flammable Gas 1B and then Flammable Gas Hazard
19 Category 2. So you're -- that's just a screenshot. I
20 don't want to spend too much time on that. Next slide,
21 please. Here is what the label will look like, as we
22 suppose, if a flammable gas is -- you can see there is

1 Category 1A, 1B and two, up on top, the hazard
2 statements are extremely flammable gas, flammable gas,
3 inflammable gas or the categories appropriately.
4 Signal word is "danger," "danger," and "warning." And
5 then what's important to note is the pictogram for
6 Category 1A and 1B. You have the flame pictogram. But
7 you have no pictogram that's required for Category 2.

8 Next slide, please. Moving on to desensitized
9 explosives, desensitized explosives are explosives that
10 need to be maintained at all times in either water,
11 alcohol, a wetting agent. And they need to be for
12 their safety and the use and handling of these
13 desensitized explosives. This is a new chapter. But
14 it is not a new hazard. They would have been in the
15 explosives chapter. Or sometimes they fell into other
16 hazard classes.

17 So we wanted to pull that out and specifically
18 identify desensitized explosives as their own specific
19 chapter. This will be captured in B.17 and Appendix B
20 of the new proposed standard. The new hazard class was
21 a discussion between the subcommittee of experts at the
22 U.N. and the United States to put these hazards that

1 weren't really communicated properly into a specific
2 and more -- more outlying chapter. So that's why we
3 did that.

4 Next slide, you'll see what we're talking
5 about. So here is the proposed table for criteria for
6 desensitized explosives. We have four hazard
7 categories. You will see those listed to the left and
8 the hazard criteria for the desensitized explosives are
9 listed to the right in the right columns and -- excuse
10 me -- in the right columns and rows. Next slide,
11 please.

12 Here is what the label will look like for all
13 four hazard categories up on top, one through four.
14 The hazard statements are there, blast or fire hazard
15 for three out of the four hazard categories. Category
16 4 only has a fire hazard. And signal words will be
17 "danger," "danger," "warning," "warning" appropriately
18 and respectively. And then you can see that the
19 pictograms are all listed there as well.

20 Next slide, please. Moving on to aerosols,
21 aerosols really -- in hazard -- hazard communication
22 2012, one of the earliest things that was recognized,

1 that many of the aerosols were being classified as
2 gases under pressure. And there was a concern there
3 that the warning really -- it really didn't match and
4 marry up enough between the gas cylinder and the
5 aerosol can. So in Rev 4 of the GHS, this was what the
6 subcommittee had added in. And now we have picked this
7 up and worked with this. And this is what we are
8 proposing here. Next slide, please.

9 Here is what the aerosol will look like. The
10 hazard categories are up on top, Category 1, 2 and 3.
11 Now, at this point, there is absolutely no change to
12 Category 1 and Category 2. We are adding Category 3.
13 And that's where the change exists. Most of the
14 aerosol cans that have come under gases under pressure,
15 they were -- they didn't really have the appropriate
16 warnings. So this is an improvement in the warning and
17 the using of the gas -- we are losing the gas cylinder
18 pictogram in Category C, as you can clearly see here in
19 this example. Next slide, please.

20 Okay. Now, for folks to have a better grasp
21 of understanding this if you are -- this is not really
22 your bailiwick, Appendix A contains all the health

1 hazards. Appendix B is all the physical hazards. They
2 both come together for label elements and how to create
3 your label and also to populate your safety data sheets
4 with proper information in Appendix C.

5 So Appendix C is actually -- brings them all
6 together. You will see the updated changes in the
7 Appendix A and B. You will see classifications, like
8 we just talked about, new guidance, and precautionary
9 statements. So this is interesting. We -- we noted
10 that on labels, space is a very precious commodity.
11 And you have very similar listed precautionary
12 statements that almost were slightly redundant or they
13 just were duplicative.

14 We decided to combine some of the statements
15 that were very similar and had a similar outcome and
16 similar direction. So you will see some new combined
17 precautionary statements in Appendix C throughout the
18 entire appendix, but especially for the physical
19 hazard. And this, again, is just for the classifiers.
20 Okay. Moving on to Appendix D, we wanted to -- we are
21 making sure that the reg -- the information is listed
22 on the safety data sheet. These changes were brought

1 into Rev 7 because of the subcommittee. And we thought
2 that these changes were important to identify and to
3 also reflect in our hazard communication update.

4 So you will see some changes in Section 9 of
5 the 16-section required safety data sheet. And you
6 will also see some changes in Section 11. And we put
7 these changes in here because we do agree with the
8 subcommittee of experts for the GHS. So that's all of
9 the fantastic changes in A, B and C and D. And I will
10 now turn this over to Deana for the implementation
11 issue. Deana?

12 MS. HOLMES: Thanks, Jen. So OSHA is also
13 updating the Hazard Communication Standard to address
14 some implementation issues that we've been
15 experiencing. We've learned quite a bit since 2012.
16 And therefore, we propose to modify the standard to
17 reflect these experiences. Now, the main
18 implementation issues that we're going to address
19 include a new definition of release for shipment,
20 changes to the labeling requirements to address small
21 packages and modifications to improve the safety data
22 sheet. Next slide, please.

1 Now, with regard to release for shipment, OSHA
2 is proposing a new definition to indicate that a
3 chemical that has been packaged and labeled in a manner
4 in which it will be distributed or sold. Now,
5 currently, OSHA requires that chemical manufacturers,
6 importers, distributors or employers will become newly
7 aware of any significant information regarding the
8 hazards of the chemicals to revise these labels within
9 six months of becoming aware of the new information.

10 And they also have to ensure that the
11 chemicals shipped after that time contain that new
12 information. So following the publication of Hazard
13 Communication Standard 2012, we received many letters
14 from manufacturers and importers expressing their
15 concerns with this provision since there are cases when
16 they have longer distribution times. And they may
17 learn about new significant hazard information after a
18 chemical has already been labeled but before it
19 actually was shipped out.

20 So in response to that and to account for
21 products that have these longer distribution cycles,
22 OSHA is proposing that the chemicals that have been

1 released for shipment -- which again means that they
2 have already been packaged and labeled and are just
3 awaiting future distribution. They don't need to be
4 relabeled. However, the chemical manufacturer or
5 importer will still have to provide the updated label
6 for each individual container along with each shipment.

7 Now, we don't anticipate that this will have
8 much of an impact on the construction industry because
9 this mainly will affect chemical manufacturers,
10 importers and distributors. Next slide, please. So
11 for small packages or small containers, currently the
12 Hazard Communication Standard requires that all shipped
13 containers be labeled with information specified in
14 Paragraph F of the standard, which would be they have
15 to be labeled with the product's identifier, signal
16 word, pictogram, hazard statement and precautionary
17 statement. And all of these label elements are based
18 on, of course, the classification of the chemical.

19 Now, OSHA receives many concerns from the
20 chemical manufacturers and importers that they -- it
21 could be very difficult to include all of this required
22 information on the labels for smaller containers. So

1 in response to these concerns through letters of
2 interpretation and, actually, the directive as well,
3 OSHA has provided a practical accommodation to address
4 situations where it's not feasible to put all of the
5 required information directly on smaller containers,
6 even for the use of pullout labels, fold-back labels or
7 tags.

8 And this practical accommodation allows -- so
9 now this practical accommodation allows limited
10 information to be included on the small container
11 label. But it does require that the complete label
12 information be provided with the -- on the outside
13 package. So this accommodation will be included in the
14 proposal. And it's consistent with the small packaging
15 examples that are now provided in Annex 7 of the GHS.
16 Next slide, please.

17 We are also proposing some improvements to the
18 safety data sheet. In Section 2, which is the hazard
19 identification section, OSHA is proposing to clarify
20 where and how chemical hazard information should be
21 presented. Specifically, we are proposing to clarify
22 that Subsection 2A include any hazards associated with

1 a change in the chemical/physical form under normal --
2 review. So, for example -- is a combustible dust
3 hazard when it's processed but not in the form in which
4 it ships. The combustible dust hazard must be included
5 in Section 2A.

6 In Section 3, which is the composition
7 information on ingredient section, OSHA is proposing to
8 revise the trade secret provisions to allow for
9 concentration ranges to also be withheld as a trade
10 secret. Currently, only the specific chemical identity
11 or the exact percentage concentration can be withheld
12 as a trade secret.

13 And at Section 8, which is the exposure
14 controls, personal protection section of the safety
15 data sheet, the standard currently requires Section A
16 to include OSHA TLV, ACGIH TLVs and any other exposure
17 limits used or recommended by the chemical
18 manufacturer, importer or employer preparing the safety
19 data sheet.

20 Now, OSHA received several questions about
21 whether this requirement applies to individual
22 ingredients and constituents in the mixture. So now

1 OSHA is proposing to clarify in Section 8A that all
2 ingredients or constituents that are also listed in
3 Section 3 must be in Section 8A. Next slide.

4 In the proposal, we will also be addressing
5 some issues that affect those who have to comply with
6 both OSHA's Hazard Communication Standard and Canada's
7 WHMIS standard. Now, the first issue that I would like
8 to highlight is the concentration ranges for
9 confidential business information.

10 So in addition to proposing to allow for
11 concentration ranges to be withheld as a trade secret,
12 which I discussed previously, OSHA is also proposing to
13 require that when an ingredient's exact concentration
14 or concentration range is being claimed as a trade
15 secret, a safety data sheet must include the
16 ingredient's concentration as a concentration range
17 selected from a prescribed list of ranges. And this
18 will align with Canada, as the prescribed list of
19 ranges being proposed are consistent with what they are
20 currently using there in Canada.

21 With regard to small packages, Canada provides
22 exemptions from certain labeling requirements,

1 small-capacity containers of 100 mLs or less. They
2 also provide labeling exemption for containers of 3 mLs
3 or less if the label interferes with the normal use of
4 the hazardous product. So in order to align better
5 with Canada, OSHA is also considering similar small
6 container labeling provisions.

7 And lastly, for hazards not otherwise
8 classified, OSHA does not require labels or hazards not
9 otherwise classified. However, Health Canada says they
10 require a pictogram, signal word, hazard statements and
11 precautionary statements for health and physical
12 hazards not otherwise classified. So to better align
13 with Canada, also proposing to allow an exclamation
14 mark pictogram to be used for hazards not otherwise
15 classified. Next slide.

16 Also with this regulation, we are trying to
17 improve alignment with other U.S. agencies. In regard
18 to DOT, we work together with DOT to provide guidance
19 to stakeholders, to clarify how to properly label bulk
20 chemicals in transport. And based on that guidance,
21 OSHA is proposing to clarify that labels for bulk
22 shipments of hazardous chemicals may either be on the

1 immediate container, or they may be transmitted with
2 shipping paper, bills of lading or other technological
3 or electronic means so that the information is
4 immediately available in print for workers on the
5 receiving end of the shipment.

6 Also, under the current standard, Appendix C
7 states that where a pictogram required by DOT appears
8 on a shipped container, the hazard communication
9 pictogram for the same hazard shall not appear. So
10 this provision was intended to prevent confusion
11 associated with having two different representations of
12 the same hazard on the container.

13 However, after learning that DOT updated its
14 regulations to indicate that there is -- they don't
15 consider it being a conflict with the DOT pictogram,
16 OSHA is proposing now to indicate that there can be a
17 DOT pictogram and a Hazard Communication Standard
18 pictogram for the same hazard on the shipped container.

19 And lastly, with regard to OSHA's proposed
20 release for shipment definition, we tried to align our
21 definition as closely as possible with EPA's definition
22 for a release for shipment, which addresses their

1 existing stock of pesticide product. And now I will
2 turn it back over to Janet.

3 MS. CARTER: Thank you, Deana. So this is
4 Janet. I'll try to wrap things up. So as we tried to
5 emphasize throughout this presentation, OSHA really
6 believes that most of the cost impact of the changes
7 for the Hazard Communication Standard will be borne by
8 manufacturers who really have the obligation to provide
9 the updates to the classification, the SDS's and
10 labels, if appropriate, to downstream users, which
11 encompasses most construction industry.

12 We believe there will be minimal cost. And we
13 also -- when we talk about benefits, we talk about the
14 safety and health benefits from improved Hazard
15 Communication Standard and for international trade
16 facilitation. So there are many -- many of our largest
17 trading partners are actually moving to Rev 7 as well,
18 and that includes Australia, New Zealand, the European
19 Union and Canada. So this really -- it makes sense to
20 have -- to update to Revision 7 because that's where
21 all of our trading partners will be. And so next
22 slide.

1 The biggest impact for the construction
2 industry will be in the improve precautionary
3 statements. And that provides better guidance on the
4 allocation of statements, updated statements to provide
5 better protection and new statements for new hazard
6 classes and categories. Training -- if there are new
7 hazards because of these changes and then also if there
8 are new SDS's, then the construction industry, the
9 management, will have to ensure that they maintain the
10 most recent SDS's.

11 And management also has to make sure that they
12 are familiar with the changes to the SDS. So that is
13 another impact borne by the construction industry
14 because all industry has to be familiar with the
15 changes, whether they impact them or not. Otherwise,
16 you wouldn't know if you were impacted if you weren't
17 familiar with the standard.

18 So the last slide, OSHA is now seeking a
19 recommendation from ACCSH on the publishing the notice
20 of proposed rulemaking to revise the Hazard
21 Communication Standard to align with the established
22 provision of the GHS. And if, after this -- well, I

1 guess I was going to say Damon has our contact
2 information. But I think it has to go through the
3 chair. So -- but if you do want to get in contact with
4 us, Damon certainly has our contact information. So
5 with that, thank you guys very much for your attention.
6 And if you have any questions, please let us know.
7 We're happy to -- too.

8 MR. CANNON: Sorry about that. I was on mute.
9 Thank you, Janet, Deana and Jennifer. Excuse me. Any
10 questions from the ACCSH folks?

11 MR. TESSIER: Yes. This --

12 MR. CANNON: Well, first, any questions from
13 the ACCSH members?

14 MR. TESSIER: Richard Tessier, please.

15 MR. CANNON: Go ahead, Richard.

16 MR. TESSIER: Richard Tessier, employee
17 representative. The last slide may have answered most
18 of my questions. When we adopted Revision 3, we
19 brought in all employees and updated their training.
20 You mentioned in the last slide that only if it creates
21 new hazards. Are you anticipating that this will be
22 creating new hazards, or is there going to be a

1 requirement for just an overall update training?

2 MS. CARTER: So answer the quick question.

3 Thank you very much. This is Janet. We don't
4 anticipate for construction that there will be many
5 hazard updates. But for some of the things that Jen
6 described, physical hazards, there may actually be
7 because we changed some hazard classes so for
8 desensitized explosives. I mean, depending on the
9 operation, there may well be.

10 We only expect that there will be training on
11 new hazards. So if there happens to be -- say you got
12 a new reagent that had a new hazard class. You
13 would -- employees would have to be trained on that new
14 hazard class. Or if they used some desensitized
15 explosives that again had change in classification,
16 then they would have to be trained on that. But for
17 old information, no. Just for new information.

18 MR. TESSIER: Thank you.

19 MR. CANNON: Any other questions?

20 MS. CAIN: Chris Cain, employee rep.

21 MR. CANNON: Yes, Chris?

22 MS. CAIN: So there have been a number of

1 studies, including two from NIOSH in the last few years
2 showing that nano SDS's aren't sufficient in
3 communicating risk to workers. So will this update
4 specifically address nanomaterials in the revision of
5 1910.1200 to accommodate that GHS revision?

6 MS. CARTER: Again, this is Janet. Thank you,
7 Chris. That's an excellent question. We actually do
8 believe it will because with -- before, we didn't
9 require the disclosure of particle size. But we will
10 now under Section 9 of the safety data sheet. And to
11 be clear, that doesn't just affect nanomaterials. It's
12 going to affect any material that has particle size in
13 the inhalable range.

14 So people will really get a better idea of
15 their overall exposure. So I think that not only will
16 this help with nanomaterials, but it will help with all
17 inhalable and respirable materials. I think that this
18 is a major improvement. And I'm hoping that people
19 will see -- because then people will really understand
20 better what they are being exposed to. So I appreciate
21 that question.

22 MS. CAIN: Great. Thank you very much.

1 MR. CANNON: Any other questions? And I
2 forgot to make this announcement. When you speak,
3 ACCSH members, can you please announce your first and
4 last names? We have a couple with, you know, the same
5 first names. But now any other questions? I just have
6 one really quick question. So if I'm a contractor and
7 nothing changes with my operation and I'm using, you
8 know, the same chemicals, you know, day in and day out,
9 what will the impact be on me potentially?

10 MS. CARTER: You should see minimal impact.
11 The only thing that you would have to do is make
12 certain that the chemicals that -- when you're
13 receiving new chemicals that they have the updated
14 safety data sheets just to make sure that you don't
15 have any new chemicals. But you really should -- the
16 construction industry really shouldn't see a whole lot
17 of changes. I mean, that's the good thing about this.
18 We do think that this is going to improve
19 hazard communication. But to the construction
20 industry, I think the impact will be minimal because
21 most of -- as we said, most of the impact will be borne
22 by manufacturers, importers and distributors. And I'll

1 say this. You know, I mean, this is -- like for safety
2 data sheets because those are the people that are
3 responsible for developing safety data sheets. But
4 certainly if something -- if you receive materials and
5 it has a safety data sheet and you change it, then you
6 are responsible for that safety data sheet. So then it
7 goes -- that goes with any industry. But if you use it
8 the way it was intended and you receive the safety data
9 sheets, you shouldn't feel the impact.

10 MR. CANNON: Okay. Thank you. Last
11 opportunity. Any other questions?

12 Hearing none, are we prepared to put forward a
13 motion?

14 MR. FOUGHT: Mr. Chairman, this is Chris
15 Fought, public representative.

16 MR. CANNON: Yes, Chris?

17 MR. FOUGHT: I move that we make the
18 recommendation to publish the planned notice of
19 proposed rulemaking to revise the Hazard Communication
20 Standard to align with the seventh revision of the
21 Global Harmonized System or GHS.

22 MR. CANNON: Is there a second?

1 MR. TESSIER: Rich Tessier. I'll second it.

2 MR. CANNON: Any discussion?

3 All right. Hearing none, I'll go through the
4 roster again for vote.

5 Chuck Stribling?

6 MR. STRIBLING: Yes.

7 MR. CANNON: Richard Tessier?

8 MR. TESSIER: Yes.

9 MR. CANNON: Chris Cain?

10 MS. CAIN: Yes.

11 MR. CANNON: Chris Fought?

12 MR. FOUGHT: Yes.

13 MR. CANNON: Fravel Combs.

14 MR. COMBS: Yes.

15 MR. CANNON: Cindy DePrater? I'll come back
16 to Cindy.

17 Scott Mabry?

18 MR. MABRY: Yes.

19 MR. CANNON: Wes Wheeler?

20 MR. WHEELER: Yes.

21 MR. CANNON: Greg Sizemore?

22 MR. SIZEMORE: Yes.

1 MR. CANNON: Mark Mullins?

2 MR. MULLINS: Yes.

3 MR. CANNON: Palmer Hickman?

4 MR. HICKMAN: Yes.

5 MR. CANNON: Randall Krocka?

6 MR. KROCKA: Yes.

7 MR. CANNON: Scott Earnest?

8 MR. EARNEST: Yes.

9 MR. CANNON: Ron Sokol?

10 MR. SOKOL: Yes.

11 MR. CANNON: All right. ACCSH just approved a
12 recommendation that OSHA move forward with revising the
13 Hazard Communication Standard to align with the seventh
14 revision of GHS by unanimous vote.

15 A PARTICIPANT: Thank you --

16 MR. CANNON: All right.

17 A PARTICIPANT: -- so much.

18 MR. CANNON: So we do not --

19 A PARTICIPANT: We really appreciate it.

20 MR. CANNON: Oh, you're welcome.

21 MR. GILLILAND: This is Joey Gilliland, ACCSH
22 counsel. Did we get a vote from Cindy?

1 MR. CANNON: Oh, snap. Thank you. Let me go
2 back. Cindy DePrater?

3 MS. DEPRATER: Yes.

4 MR. CANNON: She made -- Cindy?

5 MS. DEPRATER: Can you hear me?

6 MR. CANNON: Yes.

7 MS. DEPRATER: Yes.

8 MR. CANNON: Okay. And I'll repeat that
9 again, Joey. Sorry about that. ACCSH has voted
10 unanimously to recommend that OSHA move forward with
11 updating the Hazard Communication Standard to align
12 with the seventh edition of GHS. All right. We do not
13 have a break scheduled here at this point, but I would
14 like to suggest and recommend that we take 10 minutes
15 to stretch our legs unless others oppose.

16 MR. KETCHAM: Kevin, this is Scott. As CFO, I
17 agree.

18 MR. CANNON: All right. So thank you, Scott.
19 And 10 minutes. Get us back about 2:45/2:47.

20 A PARTICIPANT: Three.

21 MR. CANNON: Huh?

22 MR. KETCHAM: 3:47. This is Scott.

1 MR. CANNON: Oh, I'm sorry. Geez. 3:47. See
2 you guys in a few.

3 (A brief recess was taken.)

4 MR. CANNON: All right. Welcome back,
5 everyone. We are getting closer to the end of the
6 agenda. You'll see that there is -- if you have an
7 agenda in front of you, you'll see that there was a
8 10-minute break that was built in between the workgroup
9 reports. But we're going to forgo that break there.
10 And what we'll do is go right into -- pardon me -- our
11 Education, Training and Outreach Workgroup. And I will
12 turn it over to Chris Cain and Fravel Combs.

13 MS. CAIN: All right. Thank you, Kevin. This
14 is Chris Cain, employee rep. And I'm co-chair of this
15 workgroup with Fravel. First of all, I'd like to ask
16 ACCSH to accept documents into the record for this
17 meeting. One is the notes from workgroup meeting we
18 had on March 5th. Second is a workgroup -- notes from
19 a workgroup meeting we had on June 30th. And there
20 were two presentations on June 30th that Damon had and
21 were -- with visuals. I would like those accepted in
22 as well. Do I need to have a motion to accept these

1 four documents from this workgroup?

2 MR. CANNON: Yes. I do believe so. Oh, we
3 don't?

4 MR. GILLILAND: I don't believe so. I
5 would -- I will designate them as exhibits at the end.

6 MR. CANNON: As exhibits. Okay.

7 MS. CAIN: All right. Thank you. So the
8 workgroup met twice since our last full ACCSH meeting.
9 We met in March. And the topic of this workgroup is
10 focusing on three major issues. Number 1 is falls;
11 No. 2, trenching; and No. 3, basic education outreach
12 type activities. In the March meeting, we got a report
13 from OSHA's Directorate of Training and Education on
14 the training that's been done at DTE related to falls
15 and excavation since those are two of the focuses of
16 this workgroup, the types of outreach training and
17 other types of training that OSHA is developing around
18 those topic areas.

19 We also talked about the outreach training
20 program and some issues related to that. We did have a
21 discussion on falls as well where the history and
22 overview of the falls campaign and the national

1 stand-down was discussed. This was in anticipation of
2 having the stand-down in May prior to the COVID
3 pandemic and talked about issues related to ANSI Z359
4 committee related to falls.

5 There was some issues raised about Appendix B
6 of Subpart L of the construction standards, which is
7 the guidance for erectors and dismantlers for fall
8 protection since there is no Subpart B. And we agreed
9 to discuss it more at the next board-approved meeting.
10 And trenching, we heard from NUCA and MCSA related to
11 the stand-down and the summits that they conduct around
12 trenching as we were gearing up for the trenching
13 stand-down.

14 And then in the June meeting, we covered the
15 same three general topics. But they were a little
16 different. We talked about -- really opened the
17 meeting with a safety moment from Fravel talking about
18 the impact of COVID-19 on the industry and the pros and
19 cons of the impact that had on traditional and
20 persistent hazards and incidents in the industry.

21 During the falls discussion, there were two
22 presenters who discussed two separate issues. First of

1 all, Steve Rank from the ironworkers talked about some
2 issues related to fall hazards, falling object hazards
3 and tripping hazards resulting in falls. Mr. Rank
4 presented information on directives that OSHA has
5 issued around these issues that are in -- at odds with
6 the regulatory text in Subpart R and gave a very
7 compelling description and ensuing discussion around
8 that issue.

9 And the end result of that is that the
10 consensus of the group was that that should be
11 discussed in the full ACCSH meeting. So I'll come back
12 to that. Also in the falls discussion, Tom Shanahan of
13 the National Roofing Contractors Association presented
14 a very informative update from the NORA Construction
15 Sector Council Falls Workgroup. The national campaign
16 to eliminate falls resulted from the work of that
17 group. And he now chairs the workgroup for that group
18 and presented information on a great number of
19 resources and aids available and produced through that
20 group for the industry as it relates to falls.

21 And again, talking about the fact that now we
22 have a national stand-down week identified as September

1 14 through 18 of 2020, gearing up with that
2 information. There was a discussion again on Subpart
3 L, the Appendix B. It was carried over from the
4 previous meeting. And there was consensus in the group
5 that guidance was needed. In the past, OSHA and ACCSH
6 have discussed this issue and worked on it. However,
7 it has not resulted in Appendix B. So the workgroup
8 requested that -- to stay on the agenda and that the
9 workgroup be provided with information that's been
10 previously discussed on Appendix B of Subpart L.

11 Under the trenching topic, we heard from OSHA
12 on their agency priority goal. And there was a good
13 discussion on how they're striving to meet that goal
14 and have they -- how they had after the last -- in the
15 last couple of years. And we were also discussing some
16 adjustments that were being made to the goal as a
17 result of COVID-19 impacts. And the group asked for
18 more information about that, how the adjustments to the
19 goal were derived at and what that meant.

20 The Directorate of Training and Education also
21 gave an update. Specifically, the workgroup was
22 interested to know how the pandemic was impacting

1 operations at DTE, both as it pertains to DTE's role in
2 training compliance officers for OSHA, as well as how
3 the OSHA Training Institute Education Centers they
4 authorized had been impacted. So there was some good
5 discussion about the impacts of that and the impacts
6 on, in particular, the construction industry and the
7 pipeline of trainers who are available to teach
8 construction workers on those persistent hazards we
9 have in our industry.

10 So with that, that really covered the
11 discussion that happened yesterday in the workgroup.
12 And I wanted to go back to the issue that Mr. Rank from
13 the ironworkers raised. And since the consensus of the
14 group was to discuss this in the full meeting, I wanted
15 to raise that issue and specifically request that we
16 talk about in the full ACCSH the impact of the
17 directives that have been issued since the promulgation
18 of Subpart R and if this full committee would consider
19 making any recommendations in that regard.

20 So with that, I would like to turn it over to
21 questions or comments from other folks who either
22 participated in the workgroup or particularly folks who

1 are on the committee and were not present in the
2 workgroup or not part of that workgroup.

3 MR. CANNON: This is Kevin Cannon, employer
4 rep. Chris, I'm sorry. I don't know if my connection
5 went bad or whatnot. What was -- could you repeat the
6 part of the report where you mentioned bringing an
7 issue before the full committee?

8 MS. CAIN: Yes. And it's related to at least
9 two directives that were issued by OSHA after the
10 promulgation of Subpart R, the Steel Erection
11 Standards. Number 1, there is an -- there is a
12 directive that allows employers if they are
13 implementing 100 percent fall protection during steel
14 erection activities that they don't have to fully deck
15 the lower levels.

16 In the regulatory text, it's required that
17 levels below the steel erection activity within -- and
18 somebody can help me if I flub the details but that the
19 decks below the steel erectors have to be fully planked
20 no further than 30 feet below the employees who are
21 erecting the steel. So that's in Subpart R. And OSHA
22 had issued guidance to the industry that if

1 contractors, instead of fully decking, were having
2 ironworkers tie off while up there that they didn't
3 have to deck.

4 The discussion in the workgroup was about the
5 fact that this creates hazards. It does a couple
6 things. It creates hazards of dropped objects where
7 workers are working below in an open steel structure.
8 And the connectors who are at the top may drop objects.
9 Things cannot necessarily be kept completely secure
10 during the erection activities and that there is a risk
11 for workers below.

12 The risk also exists of following a much
13 greater distance for the folks who are doing the steel
14 erection if the decks are not planked as the building
15 goes up. So those are the two major issues. The issue
16 that kind of ties this together is while the regulatory
17 text and the rule requires the decking as an
18 engineering control to prevent greater falls, No. 1,
19 and No. 2, to prevent dropped objects, instead, OSHA is
20 allowing the use of tie-offs, personal protective
21 equipment, which is very much further down the
22 hierarchy of controls. It's a less protective control

1 measure and that that issue in particular should be
2 revisited and discussed in the full ACCSH committee. A
3 related issue is the use of -- or the creation of trip
4 hazards when steel members on the walking flange are
5 produced offsite with trip hazards already installed in
6 them. So the trip hazards are -- I'm sorry. I'm
7 searching for the word -- that are pre-fabricated
8 offsite --

9 MR. CANNON: The shear studs?

10 MS. CAIN: Thank you, Kevin, very much. When
11 they come preinstalled on the walking surfaces that
12 that creates a trip hazard that would otherwise not
13 exist if the studs were installed after the steel
14 members were installed and during the decking
15 operations. So those are the two issues that were
16 prohibited in the standard, and yet they are allowed
17 under directive at this time.

18 MR. CANNON: Okay. I think she opened -- this
19 is Kevin Cannon, employer rep. She opened it up for
20 discussion with the group. And, you know, I, myself,
21 like to hear the thoughts of the rest of the committee
22 as far as bringing those two issues to the full ACCSH

1 committee.

2 MR. HICKMAN: Mr. Chairman, this is Palmer
3 Hickman. I would like to bring this forward for the
4 whole group. I know it was discussed in our task
5 group. I'm not sure how many were able to hear it. It
6 was an excellent presentation. And I think Mr. Rank
7 brings forth some very valid concerns.

8 MR. SOKOL: Mr. Chairman, this is Ron Sokol,
9 public representative. I agree with Palmer. And the
10 presentation by Mr. Rank was very informative. If the
11 full committee wasn't able to see that, we need to get
12 that entered into the record. I think, you know, a
13 picture does tell a thousand words. And the two issues
14 that were raised or two of the four issues of the Focus
15 Four from falls and struck-by hazards associated with
16 it. And the fact that the letters of -- the directive
17 the letters basically from OSHA really are running
18 contradictory to the regulatory text -- I think is an
19 issue that needs to be -- need to be brought before the
20 full committee and with OSHA.

21 MR. FOUGHT: Mr. Chairman, this is Chris
22 Fought, public representative also. And let me echo

1 Mr. Sokol's comments as well. I think if issues like
2 this are brought to our attention, I think we are
3 obligated to at least entertain the idea at some level.
4 And as I believe Ron pointed out, the directive sort of
5 goes in opposite direction of the standard.

6 MR. CANNON: Okay. I'm assuming that there
7 are no other comments on this. And we have -- excuse
8 me -- Palmer and Chris and Ron, you know, in support of
9 bringing this to the rest. And Joey, I'm not for
10 certain, you know, how we proceed with this, if this is
11 something that's necessary for vote or not. But before
12 -- but -- yeah.

13 Before I, you know, even -- you know, request,
14 you know, further direction from the -- from Joey and,
15 you know, have a further discussion on this, I'm not
16 exactly sure. What is it exactly that, you know, the
17 full committee is being asked to do?

18 MS. CAIN: Well --

19 MR. CANNON: I mean --

20 MS. CAIN: -- No. 1 --

21 MR. CANNON: -- I guess I'm asking that
22 question because there is currently a standard in

1 place. And we're discussing a directive here.

2 MS. CAIN: Correct. This is Chris Cain,
3 employee rep. Basically what I'm asking is for
4 discussion from the full committee and input on this
5 issue. And I'm prepared to make a motion if we are
6 ready for that point.

7 MR. CANNON: Well, two questions for you,
8 Joey. What role does ACCSH play in directives, one.
9 And two, is this something that needs to be voted on?

10 MR. GILLILAND: This is Joey Gilliland, ACCSH
11 counsel. Since the workgroup was, you know, tasked
12 with looking at this issue, I think you can provide
13 whatever advice you want to the agency with respect to
14 the directive. Whether or not you want to do that
15 right now and have debate and have a vote on some sort
16 of motion or whether you want to have a motion to hear
17 this issue again at the next meeting with -- that's up
18 to you.

19 MR. CANNON: Okay. You know, I think, you
20 know, in the interest of time, this -- and, you know,
21 given the issue -- and I don't think we'll be able to
22 resolve this. This is something that we could probably

1 debate for the next hour or two. I would say that we,
2 you know, table this until the next meeting -- you
3 know, not table it until the next meeting but maybe put
4 forward a recommendation that we revisit this issue as
5 the full committee.

6 MR. GILLILAND: Kevin, this is Joey Gilliland,
7 ACCSH counsel again. I think you would need to have a
8 motion to table until the next meeting or to address it
9 to prepare between meetings to have --

10 MR. CANNON: Yeah. Yes, exactly. So would we
11 need two separate motions, you know, one to move this
12 issue to the full committee? And I can't remember what
13 the other one was.

14 MS. CAIN: Chairman, this is Chris Cain. I
15 mean, I'm prepared to make a motion and see where it
16 goes. I'm not hearing any discussion that any
17 committee members have particular concern with the
18 issue. So I'd like to make a motion if you'll allow
19 me.

20 MR. CANNON: Yeah.

21 MS. DEPRATER: This is --

22 MR. CANNON: Wait.

1 MS. DEPRATER: -- Cindy DePrater. If I can --
2 if I can just -- again, I think someone asked earlier
3 what is it that we are trying to come to an agreement
4 on that the committee needs to do. I don't think
5 that's been answered yet.

6 MR. CANNON: Yeah. I did ask that question.
7 And, you know, because -- you know, there is currently
8 a standard in place. And that's why I asked Joey what
9 is ACCSH's role as it relates to directives.

10 MS. DEPRATER: Right.

11 MR. SOKOL: Mr. Chairman, this is Ron Sokol,
12 public representative. And I think that the issue that
13 you were asked to address is the issue of these two
14 particular areas regarding decking and in the studs
15 causing tripping hazards, being -- where the regulatory
16 text appears to be in conflict with the OSHA directive.

17 And I think that's the issue that we are asked
18 to address. I'm either asking the agency to clarify
19 the directive in a way that is not in opposition to the
20 regulatory text that has been already gone through
21 notice of proposed rulemaking and approved in the
22 standard and to resolve that particular issue, probably

1 following these two, but I'm sure it can occur in other
2 areas as well. So I believe that -- want to frame it
3 just for the -- these two, that would be, you know,
4 being able to limit the scope. And that's what I
5 believe we were asked to do.

6 MR. CANNON: So essentially it sounds like we
7 are asking for OSHA to revisit and reconsider their
8 directives that are currently in effect for, you know,
9 the decking as well as the shear studs.

10 MR. SOKOL: Well, there appears to be a
11 conflict with the regulatory text.

12 MR. CANNON: Right. I mean, yes. I got that
13 part. But I was just trying to figure out what it is
14 we're going to ask the agency to do. And it sounds
15 like what is being discussed is a review and
16 reconsideration of the current directives.

17 MR. STRIBLING: Mr. Chairman, this is Chuck
18 Stribling.

19 MR. CANNON: Yes, Chuck?

20 MR. STRIBLING: To your question, you asked
21 earlier and Cindy commented on too. As you both know,
22 ACCSH is established to provide assistance in

1 construction standards and policy to the assistant
2 secretary. So to the question you asked earlier, yes,
3 there is a standard. And this discussion revolves
4 around the directive. But it's within the scope of
5 ACCSH because it is a matter of policy.

6 MR. GILLILAND: This is Joey Gilliland, ACCSH
7 counsel, again. I agree. I think you are free to make
8 a recommendation on the directive because this was an
9 issue that was presented to ACCSH by the agency.

10 MR. CANNON: Okay. And -- yeah, and Chuck,
11 you know, I do understand that part, you know, where
12 it's not just regulatory but on policy matters. But,
13 you know, I was just trying to recall, you know, in our
14 experiences over the years how many directives we were
15 asked to provide input on. And there have been, you
16 know -- you know, policy positions issued during our
17 tenure. And I just can't recall any instance where we
18 were asked to weigh in.

19 MR. COMBS: Kevin, this is Fravel Combs,
20 employer rep. I think that it would also be good if
21 OSHA could provide us the background on that directive
22 so that we can fully understand it if we're going to

1 debate it. And I have absolutely no problem going back
2 and debating that.

3 And I think there is other issues that, when
4 we get into that discussion -- for example, one of the
5 pictures that was shown showed a multistory building
6 several stories high with no decking. And the question
7 I asked was would the engineering design of that
8 structure provide for the stability of that structure
9 without that decking, things like that. So I think
10 there is enough issue here that a discussion would be
11 warranted.

12 MR. CANNON: And Fravel, Kevin Cannon,
13 employer rep. I do recall that photo. And I also
14 recall your comment about the structural stability, you
15 know, by using that process. But, you know, I guess my
16 question is that within itself was a clear violation of
17 both the directive and the standard.

18 MR. COMBS: Yeah. Fravel Combs, employer
19 representative. That's a great question. And so I
20 think it would be fine to have this discussion. He's
21 obviously in his group seeing and talking about
22 injuries that are occurring nationwide where my

1 personal experience, I -- I have not see that. But
2 that doesn't mean they are not out there and we
3 shouldn't discuss them.

4 MR. WHEELER: Kevin, Wes Wheeler.

5 MR. CANNON: Yes, Wes.

6 MR. WHEELER: Wes Wheeler, employer rep,
7 National Electrical Contractors Association. Yeah,
8 I -- and I want to thank Steve Rank for an excellent
9 presentation yesterday. It was really informative and
10 opened my eyes as well as the eyes of a lot of people
11 that were able to view that as far as what some of the
12 conditions are.

13 But I think that this issue really far
14 reaches, you know, other things that are common in the
15 industry now such as prefabrication and what's being
16 done with that and understanding the impact of safety
17 when, you know, we're looking at prefab offsite. What
18 are the impacts that are brought onsite, and how does a
19 worker protect themselves, or how does the employer
20 also provide the protection that's needed?

21 So there are a number of issues here that need
22 to be considered. And I support moving forward with a

1 -- you know, with customer information. But I would
2 like to have this either tabled or at least put on the
3 docket for the next meeting because I think there is
4 going to be a lot of people that would want to weigh in
5 on this issue. But I do want to thank Steve for a very
6 informative and very professionally-done presentation
7 that really hit the point of, you know, what we need to
8 do to protect those ironworkers and the people working
9 below.

10 MS. CAIN: Mr. Chairman, this is Chris Cain.
11 I'd like to make a motion for consideration.

12 MR. CANNON: Yes. Yes, ma'am.

13 MS. CAIN: Okay. My motion is this. ACCSH
14 recommends that OSHA review, reconsider and update the
15 committee on CPL02-01-048 issued April 30, 2010, and
16 the memo to the regional administrators issued May 21,
17 2012, on these issues.

18 MR. KROCKA: This is Randy Krocka.

19 MR. FOUGHT: Chris Fought.

20 MR. KROCKA: I would second that.

21 MR. CANNON: Who is -- again, can you please
22 identify yourselves and repeat who seconded the motion.

1 MR. KROCKA: Randy Krocka, employee rep. And
2 I second.

3 MR. CANNON: All right. Any further
4 discussion? All right. Hearing none, let's --

5 MR. GILLILAND: Kevin.

6 MR. CANNON: -- go to vote. Yes?

7 MR. GILLILAND: This is Joey Gilliland, ACCSH
8 counsel again. Can I get that motion one more time?

9 MR. CANNON: Okay. Chris?

10 MS. CAIN: Yes. Chris Cain, employee rep.
11 And I'm going to finish the sentence better this time.
12 Motion is ACCSH recommends that OSHA review, reconsider
13 and update the committee on CPL 02-01-048, issued April
14 30, 2010, and the memo to the regional administrators
15 issued May 21, 2012, on steel erection.

16 MR. CANNON: Did you get that, Joey?

17 MR. GILLILAND: Yes. Thank you.

18 MR. CANNON: And the motion was seconded. So
19 we will go to vote. Chuck Stribling?

20 MR. STRIBLING: Yes.

21 MR. CANNON: Richard Tessier?

22 MR. TESSIER: Yes.

1 MR. CANNON: Chris Cain?
2 MS. CAIN: Yes.
3 MR. CANNON: Chris Fought?
4 MR. FOUGHT: Yes.
5 MR. CANNON: Fravel Combs?
6 MR. COMBS: Yes.
7 MR. CANNON: Cindy DePrater?
8 MS. DEPRATER: Yes.
9 MR. CANNON: Scott Mabry?
10 MR. MABRY: Yes.
11 MR. CANNON: Wes Wheeler?
12 MR. WHEELER: Yes.
13 MR. CANNON: Greg Sizemore?
14 MR. SIZEMORE: Yes.
15 MR. CANNON: Mark Mullins?
16 MR. MULLINS: Yes.
17 MR. CANNON: Palmer Hickman?
18 MR. HICKMAN: Yes.
19 MR. CANNON: Randall Krocka?
20 MR. KROCKA: Yes.
21 MR. CANNON: Scott Earnest?
22 MR. EARNEST: Yes.

1 MR. CANNON: Ron Sokol?

2 MR. SOKOL: Yes.

3 MR. CANNON: All right. Motion passes
4 unanimately to bring the steel erection issue before
5 the full committee at a future ACCSH meeting. So does
6 that complete your report, Chris and Fravel?

7 MS. CAIN: It does, I believe. Fravel?

8 MR. COMBS: Yes. That's good. Thank you.

9 MR. CANNON: All right. And Joey, are there
10 any procedural issues, matters that you need to
11 announce at this time regarding exhibits and motions
12 and whatnot?

13 MR. GILLILAND: This is Joey Gilliland, ACCSH
14 counsel. I will do that at the end. I just want to
15 confirm with Chris that the two presentations she
16 referenced were the ironworkers presentation from Mr.
17 Rank and the National Roofing Contractors Association
18 presentation from Mr. Shanahan.

19 MS. CAIN: Yes.

20 MR. GILLILAND: Thank you.

21 MR. CANNON: All right. Thank you, Chris and
22 Fravel. Next workgroup report will be emerging and

1 current issues. And I will turn that over to -- excuse
2 me -- the two chairs, Scott Earnest and Greg Sizemore.

3 MR. EARNEST: Okay. Thank you, Kevin. And
4 we're going to need some help with our slides. Before
5 we get into the slides for the update, I wanted to
6 enter in a number of documents into the record. We've
7 got the meeting minutes from March 5 and the meeting
8 minutes from yesterday, June 30. In addition to that,
9 we have a number of presentations.

10 On March 5th, we had a presentation from Dr.
11 Rick Rinehart at CPWR on opioids resources that they
12 developed. We also had a presentation from Michelle
13 Walker with the Construction Industry Association for
14 Suicide Prevention. Yesterday we had a update from DTE
15 and Directorate of Construction. So I want to enter
16 into the record Tim Irving talking points, also, the
17 safety moment from Co-Chair Greg Sizemore.

18 And then we had two other presentations
19 yesterday, one from Jonathan Oppenheimer with Willis
20 Towers Watson and Dr. Dan Reidenberg on mental health
21 and suicide in the construction industry and work they
22 had done together. And we lastly had a presentation

1 with Chris Rodman at CPWR on opioids, training and
2 development that they have done. Before we get into
3 the -- too much detail, I just want to again recognize
4 Co-Chair Greg Sizemore as well as the workgroup
5 members, Cindy DePrater, Chuck Stribling, Chris Fought,
6 Richard Tessier and Randy Krocka.

7 And then on the next slide, just wanted to get
8 into some background on both of these issues and some
9 facts to back that up. I wanted to start off and just
10 say that there has actually been quite a bit of work
11 done in this area at NIOSH on both topics. In terms of
12 some data on drug overdoses and opioids, from 1999 to
13 2017, there were 700,000 people that died from drug
14 overdose.

15 And of those 700,000 people, 399,000 of them
16 died from opioid overdoses. In 2017, 68 percent of
17 70,000 overdose deaths were attributed to opioids so 68
18 percent. When you look at the construction industry,
19 the opioid overdose rate for the construction industry
20 is seven times higher than all workers. Unintentional
21 construction overdose fatalities jumped from seven to
22 65 between 2011 to 2018. Older construction workers

1 were more likely to be prescribed opioid painkillers
2 where uninsured construction workers were likely --
3 more likely to be using illicit drugs.

4 In terms of suicide, suicide is a death of
5 despair. There are approximately 41,000 suicides in
6 the U.S. each year. And there has been an upward trend
7 in suicides in this country over the past 20 years.
8 Surprisingly, there is more people that are dying from
9 suicides than motor vehicle crashes now. And it's the
10 leading cause of death for men between 25 and 54. Next
11 slide.

12 I also wanted to just put these deaths in
13 context to other common causes of death that are often
14 work-related. So you can see on this chart at the top,
15 heart disease, it's the -- the likelihood of dying from
16 heart disease is, like, one in six. And as you go
17 down, you know, sort of right in the middle in red is
18 suicide is one in 88, followed by opioid overdose
19 deaths, one in 96.

20 And as I had mentioned earlier, that's a
21 higher rate than motor vehicle crashes. And it's also
22 higher than falls or gun assaults. So it's a major,

1 major problem that we've got to get a handle on. And
2 it's really hitting our industry particularly hard.
3 Next slide.

4 Wanted to include this infographic. This was
5 developed in the last six months or so from some
6 colleagues of mine at NIOSH. And it points out the top
7 three industries that are afflicted by drug overdose
8 deaths. And that's transportation and warehousing,
9 construction and healthcare and social assistance.
10 This infographic gets into issues related to opioids as
11 well as some of the work factors that contribute to
12 opioid overdose deaths such as pain at work or stress
13 at work.

14 Then it also has a series of recommendations
15 that employers can take, both large and small, to
16 address it and some links to resources from the
17 National Safety Council, as well as the U.S. Chamber of
18 Commerce. Next slide, please.

19 The next few slides are kind of summaries of
20 some of the material that was presented to our
21 workgroup. So this first one is the presentation from
22 the Construction Industry Association for Suicide

1 Prevention. And if you look at the top two -- top two
2 lines under "suicide is preventable," it shows that
3 construction worker fatalities for, you know, typical
4 workplace causes was around a little over a thousand in
5 2018 with a rate of 9.5 per 100,000 people.

6 But if you look at deaths from suicide in the
7 construction industry, it dwarfs that number, over
8 5,000 suicides of construction workers in 2018. So
9 again, the total number is about five times as high.
10 And the rate is also about five times as high. And a
11 lot of this is related to depression. Mental health
12 claims are representing about a third of all disability
13 claims that insurance brokers are seeing. And many of
14 the risk factors are well-known. Next slide, please.

15 Yesterday, we heard from Willis Towers Watson
16 and SAVE (phonetic) and heard about the great work that
17 they are doing or developing training programs for
18 construction workers. They are using a platform that
19 has three levels. The first level is directed at
20 workers with a 30-minute video. The second level is
21 for foremen and supervisors. And the third level is
22 for principals and owners. They are still in the

1 process of developing that. They laid out some of the
2 factors that lead to mental illness that can cause
3 suicide. And they also talk about a library that they
4 are developing of resources for mental health and
5 suicide. It's called Under the Hardhat.

6 Next few slides relate to work that CPWR is
7 doing. CPWR is being funded as a national construction
8 center for NIOSH. And they are doing a lot of good
9 work in this area. Chris Cain is co-chairing. And
10 they have two task force from this area. But they have
11 put out a hazard alert. They develop toolbox talks.
12 They developed an alert for physicians to be aware of
13 opioid abuse when it comes to pain at work. We've also
14 developed some infographics. And then lastly,
15 yesterday, we got the presentation on the opioid
16 awareness training, which is on the next slide.

17 Their opioid awareness training covers a
18 number of different topics, including what the problem
19 is, how to understand the issues around opioids abuse
20 and overdose, ways to prevent overdoses, how to address
21 treatment or recovery and then some common struggles
22 that individuals are dealing with when it comes to

1 these issues. Next slide, please. Our workgroup had
2 laid out a number of issues that we thought OSHA should
3 consider when it comes to both of these topics. Some
4 of the things that were discussed include development
5 of a special emphasis program, development of outreach
6 training, incorporating some of these issues into
7 safety and health management programs, looking at
8 leading indicators or how leading indicators might
9 apply to this to help prevent some of the deaths that
10 we are seeing.

11 There was also a discussion of the Foundation
12 of Safety Leadership and whether or not some of this
13 could be incorporated into that training or into OSHA
14 10 or 30-hour or, for that matter, highlighting some of
15 these issues on some of the stand-downs that are
16 occurring. There is a lot of different stand-downs
17 including the big one, the falls campaign coming up.

18 But, you know, potentially could this be
19 incorporated into some of these national stand-downs?
20 I know in -- excuse me -- in Tim Irving's update, he
21 talked a lot about some of the regional efforts but --
22 which is great. It's good that there are a lot of

1 regional efforts going on in this area and work for the
2 alliances. But the issue was is it possible to look at
3 some of those regional efforts and turn it into more of
4 a national approach to this.

5 And then the last slide just lays out a number
6 of questions that were discussed. Some of the things
7 that workgroup -- some of the questions the workgroup
8 had raised that OSHA might want to think about such as,
9 you know, could these topics be turned into a training
10 elective. Are there existing resources that would be
11 suitable for incorporating materials on these topics
12 into those existing resources?

13 Is there a list of OSHA's actions, you know,
14 sort of a comprehensive list of what's been done? I
15 think Tim Irving did cover a fair amount of that. But
16 how can OSHA best build on what they've already done in
17 this area and then again, the issue of leading
18 indicators and what could be done there as well as
19 looking at regional efforts and are there -- is there a
20 potential to increase some of those into a national
21 effort. So that's the update from the emerging issues
22 and current -- Emerging and Current Issues Workgroup.

1 I can open it up for, I guess, questions for the
2 workgroup first and then the whole committee. Is that
3 good, Kevin?

4 MR. CANNON: Yeah, Scott.

5 MR. EARNEST: So any comments or ideas from
6 the workgroup initially?

7 MR. SIZEMORE: This is Greg Sizemore, employer
8 representative. I just wanted to say you did a great
9 job of capturing all of that, Scott. I think there is
10 a lot of passion around this topic, suicide and
11 addiction, in our workgroup. I know that, and I want
12 to recognize that work that OSHA is doing in this
13 space, their website and the things that they are
14 promoting out there. I think that it really is a call
15 to action to all of us to make sure that we are not at
16 the top of that list any longer, that we do something
17 to truly address not just the physical health of our
18 employees but their mental health as well.

19 MR. KROCKA: Mr. Chairman, Randy Krocka,
20 employee trustee.

21 MR. CANNON: Yes, Randy?

22 MR. KROCKA: Yeah. I just want to reiterate

1 what Greg said too and there is so many great things
2 out there in this space of opioids and suicide
3 prevention. And I missed Greg's presentation on the
4 CIASP. And they have also -- and I didn't see that on
5 there. But they have a LivingWorks application where
6 somebody can learn about this too. And what OSHA is
7 doing in putting all this together, I think it's
8 obviously well overdue and a great effort by everyone.

9 So I'm glad it's being all put into one place
10 here with -- through OSHA as well. But these other
11 organizations -- you know, us included and other
12 locals. We have a smart map that it's called. And we
13 all are working towards this same end to try to
14 eliminate or end these needless deaths. And issues
15 that they are called, even if caused, even if it's not
16 death on jobsites, lack of coming into work and all the
17 -- all the things that go with that and the hospital
18 costs and etc. So thank you, everyone.

19 MR. CANNON: Anyone else?

20 MR. SIZEMORE: Kevin, one thing I would add
21 that I didn't really touch on in this -- it had come up
22 a little bit. But, you know, these are really, really

1 serious issues. And, quite frankly, it dwarfs some of
2 the other issues that, you know -- seeking health
3 issues that we traditionally talk about. I mean, they
4 are important too. But these are -- the numbers we are
5 seeing here are just outrageous. But now we are
6 dealing with this pandemic and the stress and issues
7 related to that. It really, you know, sort of increase
8 things --

9 MR. CANNON: Right.

10 MR. SIZEMORE: -- even more so. I know we've
11 got a researcher at NIOSH that's really kind of looking
12 at that and trying to document and understand how the
13 pandemic -- and the influence of the pandemic is going
14 to affect suicides.

15 MR. CANNON: Yeah. And -- yeah, and I have
16 mentioned it. And I think Scott touched on it earlier
17 as far as the webpage that was created. And Greg, you
18 know, correct me if I'm wrong. I think that webpage
19 was created after a visit by representatives from CIASP
20 and, you know, had a discussion with the folks at DOL.
21 And, you know, there is -- and I think everything that,
22 you know, you are asking of OSHA are, you know -- is

1 items or actions that could be impactful. But are
2 there some things that we could do in the short-term,
3 you know, by the time -- it took some time for -- and
4 Chris, you can help me with this because I don't know
5 the timeline. But it took some time for the FSL to be
6 adopted as an elective and, you know, knock on wood.
7 I'm hoping the pandemic is behind us, you know, in the
8 not-so-near future but, you know, before the time frame
9 that it took to do that -- but what are some of the
10 things that OSHA could do now? Is it, like, promoting
11 that page that Scott put up earlier through their
12 QuickTakes or, you know, including in the QuickTakes
13 the consultation services that Tim Irving mentioned
14 yesterday?

15 I think he said -- and I could have misheard
16 that nine out of the ten regions had engaged in some
17 type of effort or activity to provide a service to the
18 regulated community. I'm just trying to think of what
19 are some of the things, you know, we could do, you
20 know, in the short-term and then look to the
21 longer-term items.

22 MS. CAIN: So, Kevin, this is Chris Cain,

1 employee rep. You asked about the timeline it took to
2 get FSL, which was the training program produced at
3 CPWR as the official elective. And it took a while.
4 However, there is no reason not to engage this as a
5 potential discussion point with DTE or have the
6 committee recommend that that course of action be
7 explored and considered.

8 MR. CANNON: Mm-hmm.

9 MS. CAIN: I think that would be an
10 appropriate move to move the training more into the
11 industry. But I would like to also weigh in that
12 the -- the question on the screen that talks about is
13 it possible to develop and use leading indicators in
14 this area.

15 I think that's a really important question
16 because the research that we see flags that when a
17 worker suffers an occupational injury, they are more
18 likely to be prescribed opioids, take opioids and that
19 many people who fatally overdose started with their
20 first prescription after an occupational injury or
21 occupationally-induced pain. So there may be an
22 opportunity in a collaborative and educational sense

1 for OSHA to remind folks of this and to publicly, you
2 know, flag that injuries and musculoskeletal disorders
3 related to construction work cause pain and that one of
4 the things that can be done to cut off the pain is to
5 prevent those injuries and prevent those
6 musculoskeletal disorders from occurring in the same
7 place as an educational activity.

8 I'm not going to go as far as recommend that
9 we have an ergonomics standard because we know we won't
10 get there. But I think by addressing the causes of
11 occupational pain, we are going to go a long way in
12 impacting this epidemic.

13 MR. CANNON: Thanks, Chris. And you said it
14 in a better way. And that's where I was going, you
15 know, looking at things that we could do in the shorter
16 term versus the longer term, like the adoption of a
17 module for suicide and -- prevention and opioid
18 addiction.

19 MR. SOKOL: Mr. Chairman, this is Ron Sokol,
20 public representative. And I would just like to
21 introduce a thought idea about having this issue rolled
22 into the total worker health initiatives that NIOSH

1 already is, you know, pushing through -- through their
2 circles and employment arenas. The nine subcategories
3 of total worker health, I believe eight of those
4 subareas address the suicide in opioids from control of
5 hazards and exposure, organization of work,
6 environmental support, leadership, community support,
7 workforce demographic policy and new employment
8 practices.

9 So I would like to ask, you know, Scott
10 Earnest if we could work on an initiative with NIOSH
11 that this be framed into the total worker health
12 initiative as a way to be able to get this out to
13 leading construction employers who will then bring
14 their subcontractors into this because the total worker
15 health initiative, you know, does have the higher fee
16 of controls of eliminate, substitute, redesign, educate
17 and encourage.

18 And, you know, it seems like this is an
19 overall framework for worker well-being. And this is a
20 worker well-being issue as well as a safety issue. So
21 my recommendation --

22 MR. CANNON: And I agree.

1 MR. SOKOL: -- would be to --

2 MR. EARNEST: Ron, I appreciate that
3 recommendation. But I will remind you this is an
4 advisory committee for OSHA, not NIOSH. And the other
5 thing I wanted to say about that is, quite frankly,
6 this already is rolled into total worker health. Casey
7 Chosewood, who is the director of our Total Worker
8 Health Program, is also overseeing these efforts on
9 opioids and suicide. He is overseeing it not just for
10 construction. But he is overseeing it really for all
11 industries. But, I mean --

12 MR. CANNON: Yes.

13 MR. EARNEST: -- point is well-taken. You
14 know, there is certainly more work to be done for
15 construction.

16 MR. CANNON: All right. And you are right,
17 Scott. He presented for us in Austin this year and did
18 a great job. And he did touch on that. You know, one
19 of the things that -- you know, we mentioned that
20 safety week is coming up. And, you know, AGC is part
21 of that planning committee. So we are pushing for --
22 and I think, you know, they have accepted that, you

1 know, the issue of opioid use be a topic for that week.
2 Now, I can, you know, go back to the planning committee
3 and see if we can fold both of those into the mix. But
4 right now, there is definitely going to be a topic on
5 opioids during that week.

6 MR. EARNEST: And we would certainly be happy
7 to have, you know, some of our researchers that are
8 working these issues participate and discuss those kind
9 of things. And we --

10 MR. CANNON: Okay. And --

11 MR. EARNEST: Something I would like to add,
12 we did update our strategic plan just last year,
13 specifically for the construction industry to encourage
14 more research in this area for the construction
15 industry. So there was a whole series of goals we
16 developed to tie in with these issues.

17 MR. CANNON: Any other discussions? I'm not
18 trying to cut it short but, you know, I do want to
19 leave some time for public comment. But any other
20 discussions on the emerging -- the Current and Emerging
21 Issues Workgroup report? And Scott and Greg, are there
22 any formal recommendations that you'd like to put

1 forward to ACCSH?

2 MR. EARNEST: I don't think we have a specific
3 recommendation at this point. We just wanted to sort
4 of brief the committee on the deliberations and some of
5 the suggestions that came out of it. We'll need more
6 time to come up with a very -- a specific
7 recommendation.

8 MR. CANNON: Okay. All right. Well, thank
9 you both for a great meeting and great report and
10 discussion.

11 MR. EARNEST: Thank you.

12 MR. CANNON: Okay. As I mentioned, we are now
13 into the public comment portion of the meeting. I
14 understand that we have two public participants who
15 have signed up to provide comments to the committee.
16 And I believe it was Steve Rank and Fred Coddle (sic).
17 So I will start with Steve. And Steve, you know, given
18 that we have 17 minutes left for the agenda, if you
19 could make it brief, I would appreciate it.

20 MR. RANK: Great. Can you hear me okay?
21 Hello?

22 MR. CANNON: Hear you perfect, yes.

1 MR. RANK: Kevin, can you hear me okay?

2 MR. CANNON: Yes. I can hear you. Can you
3 not hear me?

4 MR. RANK: Okay. Yeah, I can now. Thank you.
5 I'll make it really brief. In your package today, we
6 submitted information to -- for ACCSH for you to please
7 reaffirm the 2011 unanimous vote for OSHA to pursue and
8 revise the Subpart Q Concrete and Masonry Standard.
9 This was after many years of seeing fatalities and
10 disabling injuries in the reinforcing steel and
11 post-tensioning industries.

12 Since that time in 2011, I'm pleased to report
13 to you that we have an ANSI standard that passed in
14 2013. And it was reaffirmed in 2018. It contained
15 every single proposal that our industry stakeholders
16 made. It was subsequently passed in 2018 by California
17 OSHA. And now it has been passed and will come into
18 effect in the State of Washington OSHA plan on October
19 1st of this year.

20 These series of standards are common sense.
21 Many of them are taken from the Steel Erection Standard
22 on site conditions. So our reinforcing steel

1 contractors can get their rebar in the job. They can
2 avoid material handling injuries, crane and trucking
3 injuries and incidents. So this has been a very, very
4 effective way to protect reinforcing ironworkers as
5 well as these other traits working around us. I don't
6 have time. I am not going to, Kevin, go into all the
7 PowerPoints that you have here.

8 But in this is contained things like site
9 conditions. We can get in there. And it's proven
10 effective, written notifications, to make sure the
11 formwork is stable before we start landing heavy loads
12 of rebar on it. We have stability requirements for
13 vertical walls, columns and decks. None of this is
14 contained in your 1971 Subpart Q standard. It's so
15 antiquated, there is only three or four things that
16 even pertain to reinforcing steel contractors and
17 workers.

18 Next are a requirement for impalement
19 protection and custody of these impalement covers. As
20 you well know, there is a big issue with who is going
21 to install them and who is going to maintain them after
22 we leave the area. So there is information about that.

1 There is also requirements for how you hoist and rig
2 all these rebar assemblies like walls that you built on
3 the ground and you want to stand up so you don't have
4 to work in the air. Same thing with columns.

5 But what we found out, that if you don't have
6 standards and training on this, people are hoisting and
7 rigging these heavy rebar assemblies. And they are
8 collapsing. And unfortunately, we've got the data to
9 prove it. Post-tensioning. There is hardly anything
10 in the OSHA standards about post-tensioning activities,
11 yet we have significant injuries and fatalities in this
12 type of hazardous activity.

13 So we worked with the Post-Tensioning
14 Institute. They were very, very accommodating. We
15 have nine organizations, have a coalition of
16 reinforcing steel contractors that's in your packet and
17 also special training requirements who people are
18 engaged in this. So I don't want to belabor it. I
19 just want to say that I think now is the time for
20 federal OSHA to take the lead in this, that now we've
21 got an ANSI standard and two state-approved OSHA plans
22 that have this.

1 It's been unanimously voted for in 2011. We
2 have worked with the AGC in California who supported
3 this. There was no opposition to this. We had two
4 days of public hearings in California and two days of
5 public hearings in the State of Washington. And so
6 we're really pleased to be working with the AGC on
7 this.

8 And I'd like to say that there has not been
9 any comments to OSHA since 2018 or 2013 to the ANSI
10 standard that these standards were overreaching or that
11 it was problematic. In fact, it's reducing injuries.
12 And it's increasing productivity. And they are just
13 commonsense standards. So today, I'm not going to go
14 through the PowerPoint. But I would appreciate your
15 consideration for ACCSH to reaffirm the 2011 unanimous
16 vote and request OSHA to put this on their rulemaking
17 agenda. Thank you very much, Kevin, and committee
18 members.

19 MR. CANNON: Thank you, Steve.

20 MS. CAIN: Chairman, this is Chris Cain,
21 employee rep.

22 MR. CANNON: Yes?

1 MS. CAIN: I'd like to make a motion for ACCSH
2 to reaffirm the July 28, 2011, unanimous ACCSH vote
3 recommending OSHA include in the fall regulatory 2020
4 agenda rulemaking for the revision of the existing 1926
5 Subpart Q Concrete Masonry Standard to incorporate
6 reinforcing steel and post-tensioning standards
7 contained in the 2018 ANSI A10.9 Concrete and Masonry
8 Standard and subsequently adopted by California OSHA
9 and Washington OSHA.

10 MR. FOUGHT: Mr. Chairman, this is Chris
11 Fought, public representative. I'd like to second that
12 motion.

13 MR. CANNON: All right. Thanks, Chris.

14 Any discussion? I'll start. I do remember --
15 you know, I can't remember when. It's been many years
16 ago, maybe eight or so, about, you know, this. And,
17 you know -- and maybe -- and I'm not sure how to
18 approach this because I know OSHA issued an RFI on this
19 before. And maybe it's a simple matter of getting an
20 update from the agency as to, you know, what the
21 results of that RFI -- you know, how the RFI informed
22 them as far as their activity because I do recall that

1 it was part of an RFI. And if you remember, it was
2 lumped in. It was back in operations. And I may, you
3 know, not get the other part of it accurate but
4 reinforcing steel. And, you know, I just -- maybe we
5 just ask for an update as to, you know, what the
6 results of that RFI were.

7 MS. CAIN: Call for a vote.

8 MR. HICKMAN: Yeah, Mr. Chairman, Palmer
9 Hickman. Yeah. I guess we are discussing it. We have
10 a motion and a second. And I just heard someone ask
11 for the vote. So I guess it sounds like we're going to
12 do --

13 MR. CANNON: Well, I mean, I guess we're
14 asking OSHA to reaffirm a standard that they may or may
15 not have -- may not have reviewed.

16 MS. DEPRATER: Yeah. I agree with that. I
17 can't in good conscience vote on something we don't
18 know that OSHA has reviewed recently.

19 MR. CANNON: And nor the committee itself.

20 MS. DEPRATER: This -- I'm sorry. This is
21 Cindy DePrater, employer rep.

22 MR. STRIBLING: Mr. Chairman, this is Chuck

1 Stribling.

2 MR. CANNON: Yes, sir?

3 MR. STRIBLING: Could -- Chris, could you read
4 the motion back again slow enough so I can try to
5 digest all that?

6 MS. CAIN: Yes. Chris Cain, employee rep.
7 Motion is -- it's a motion for ACCSH to reaffirm the
8 July 28, 2011, unanimous ACCSH vote recommending that
9 OSHA include in the fall 2020 regulatory agenda
10 rulemaking for the revision of the existing 1926
11 Subpart Q Concrete and Masonry Standard to incorporate
12 reinforcing steel and post-tensioning standards
13 contained in the 2018 ANSI A10 Concrete and Masonry
14 Standard and subsequently adopted by California OSHA
15 and Washington OSHA.

16 MS. DEPRATER: So you're asking -- I'm sorry.
17 Cindy DePrater, employer rep. You are asking them
18 to -- you are asking ACCSH, not OSHA, to incorporate by
19 reference into the OSHA standard?

20 MR. WHEELER: Chris, Kevin?

21 MR. CANNON: Present. Yes?

22 MR. WHEELER: Wes Wheeler.

1 MR. CANNON: Yes, Wes?

2 MR. WHEELER: I understand the issue, and I
3 understand what OSHA -- this is Wes Wheeler, National
4 Electrical Contractors Association employer rep. I
5 understand the issue. And I just am afraid that the
6 wording of the motion as it stands cannot be voted on
7 by this committee. And the reason being is because we
8 are asking somebody to reaffirm something that was done
9 in 2011, yet we are asking them to include 2018
10 information.

11 And that's a contradictory as far as we can
12 only go back and say, "Hey, what did we do in 2011
13 based on the information?" And, yes, that information
14 was probably promulgated into the ANSI standard. And I
15 know it really has worked as protecting employees. But
16 to include that language in this motion, it may be
17 contradictory or -- we can't go back and say that the
18 2011 ACCSH committee approved the 2018 ANSI document.

19 MR. HICKMAN: Mr. Chairman, Palmer Hickman,
20 employee rep.

21 MR. CANNON: Yes, Palmer?

22 MR. HICKMAN: I'd like to call a question --

1 MR. CANNON: Yes, sir.

2 MR. HICKMAN: -- to end debate and take a
3 vote. I guess we have to vote on that motion.

4 MS. CAIN: Mr. Chairman, this is Chris Cain.
5 I offer to amend my motion to clarify to address Wes
6 Wheeler's comment and Cindy DePrater's.

7 MR. CANNON: Yes.

8 MS. CAIN: So I'm going to read the new
9 motion. Motion for ACCSH to reaffirm the July 28,
10 2011, unanimous ACCSH vote recommending OSHA conduct
11 rulemaking and to include in the fall 2020 regulatory
12 agenda rulemaking for the revision of the existing 1926
13 Subpart Q Concrete Masonry Standard and to incorporate
14 reinforcing steel and post-tensioning standards
15 contained in the 2018 ANSI A10.9 Concrete and Masonry
16 Standard and subsequently adopted by California OSHA
17 and Washington OSHA. So to clarify, we are reaffirming
18 that this is an important issue, as voted on in 2011,
19 and we are recommending that it be put back on the
20 regulatory agenda.

21 MR. CANNON: Okay. And again, you know, as I
22 was mentioning, it was on the regulatory agenda, as

1 voted on by ACCSH. And so would it not be helpful to
2 understand, you know, what informed OSHA's decision and
3 what the status of it is at this point because it's
4 been done once, is what I'm getting at.

5 MS. CAIN: Chris Cain, employee rep. Well, in
6 all fairness, OSHA was made aware that this public
7 comment was coming. And we have not heard from OSHA
8 anything on this topic. So I -- maybe it's just asking
9 OSHA what happened to the rulemaking in the past and
10 hearing what's different now.

11 MR. CANNON: Yes. Yes. And I was trying to,
12 you know, express that, you know, maybe having OSHA to
13 provide us with an update as to what happened and, you
14 know, what -- you know, what future plans might be to
15 address Subpart Q.

16 MR. COMBS: Fravel Combs, employer rep. I
17 would agree with that.

18 MS. CAIN: I meant now. There is people from
19 OSHA who are here who can --

20 MR. CANNON: Oh. You mean on the phone.
21 Well, I'm not sure if, you know, they are prepared to
22 give us a full briefing on what happened at this point.

1 But, you know --

2 MR. KETCHAM: This is Scott, CFO. We are not
3 at this point, Kevin. We'll have to do some research
4 on this and look and see what had transpired
5 previously. And we are not prepared at this moment to
6 comment on that.

7 MR. STRIBLING: Mr. Chairman, this is Chuck
8 Stribling.

9 MR. CANNON: Yes, sir.

10 MR. STRIBLING: A question for Chris.
11 Would -- what would -- how would you feel about a
12 motion from ACCSH to the agency reaffirming that OSHA
13 continue the rulemaking to address reinforcing steel
14 and post-tensioning, which is what was done in 2011,
15 which, by the way, Mr. Chairman, that was your first
16 meeting and mine as well. And also in that motion,
17 something to the effect that OSHA report back to the
18 committee at our next meeting the status of the
19 rulemaking.

20 MS. CAIN: This is Chris Cain, employee rep.
21 I prefer not to change the motion that I already
22 changed once.

1 MR. CANNON: Any other discussion?

2 MS. DEPRATER: Mr. Chairman, Cindy DePrater.

3 I have to agree with you that OSHA has not had time to
4 prepare for this. Or maybe they did, and we just
5 didn't know about it. But I just -- I think I'm in
6 agreement with you that we need to ask them to go back
7 and review and report back out at our next meeting.

8 MR. STRIBLING: Mr. Chairman, this is Chuck
9 Stribling.

10 MR. CANNON: Yes, sir.

11 MR. STRIBLING: Before we take a vote -- so we
12 had a motion and then a second. And then Ms. Strahan
13 (sic) had an amended motion with the second. So do we
14 -- and I guess maybe counsel could advise. Does the
15 first motion and second need to be withdrawn on the
16 record?

17 MR. CANNON: Joey?

18 MR. GILLILAND: I believe we didn't. This is
19 Joey Gilliland, ACCSH counsel. We didn't resolve the
20 motion to amend the motion. So first either Chris can
21 withdraw and restate it or we decide whether to amend
22 the motion to the second version.

1 MS. CAIN: So I need a second. This is Chris
2 Cain. I need a second to my amended motion.

3 MR. CANNON: I think we need to resolve the
4 first motion first that was seconded.

5 MR. GILLILAND: Well, we need -- the motion to
6 amend is what's before the committee right now. So
7 someone seconds Chris's motion to amend the motion.
8 And then if Chris could restate that motion again --

9 MR. KROCKA: This is Randy Krocka, employee
10 rep. And I second the motion.

11 MS. CAIN: Chris Cain, employee rep. I'll
12 restate the motion, the motion for ACCSH to reaffirm
13 the July 28, 2011, unanimous ACCSH vote recommending
14 OSHA conduct rulemaking and to include in the fall 2020
15 regulatory agenda a rulemaking for the revision of the
16 existing 1926 Subpart Q Concrete Masonry Standard to
17 incorporate reinforcing steel and post-tensioning
18 standards contained in the 2018 ANSI A10.9 Concrete and
19 Masonry Standard and subsequently adopted by California
20 OSHA and Washington OSHA.

21 MR. GILLILAND: Joey Gilliland, ACCSH counsel.
22 So now we need a vote on that amendment.

1 MR. CANNON: All right. We'll go to the vote.
2 Chuck Stribling?

3 MR. STRIBLING: I'll have to abstain.

4 A PARTICIPANT: Mr. Chairman --

5 MR. CANNON: All right. Richard?

6 A PARTICIPANT: -- point of order.

7 MR. CANNON: Yes.

8 A PARTICIPANT: Could we -- we're voting on
9 whether we're amending the motion; correct? We are not
10 voting to accept the amended motion.

11 MR. GILLILAND: Correct.

12 MR. CANNON: Correct.

13 MR. STRIBLING: Okay. Thank you for the point
14 of order. If we're voting on the amended motion
15 language, then I would vote yes.

16 MR. CANNON: All right. Richard?

17 MR. TESSIER: Yes.

18 MR. CANNON: Chris Cain? Pardon.

19 MS. CAIN: Yes. Chris Cain, yes.

20 MR. CANNON: Chris Fought?

21 MR. FOUGHT: Yes.

22 MR. CANNON: Fravel Combs?

1 MR. COMBS: Yes.

2 MR. CANNON: Cindy DePrater?

3 MS. DEPRATER: Yes.

4 MR. CANNON: Scott Mabry?

5 MR. MABRY: Yes.

6 MR. CANNON: Wes Wheeler? Wes?

7 I'll come back to Wes.

8 MR. WHEELER: Yes.

9 MR. CANNON: Greg --

10 MR. WHEELER: Yes.

11 MR. CANNON: Okay. Yes. Okay.

12 Greg Sizemore?

13 MR. SIZEMORE: Yes.

14 MR. CANNON: Mark Mullins?

15 MR. MULLINS: Yes.

16 MR. CANNON: Palmer Hickman?

17 MR. HICKMAN: Yes.

18 MR. CANNON: Randall Krocka?

19 MR. KROCKA: Yes.

20 MR. CANNON: Scott Earnest?

21 MR. EARNEST: Yes.

22 MR. CANNON: Ron Sokol?

1 MR. SOKOL: Yes.

2 MR. CANNON: All right. So now we move to
3 vote on Chris's amended recommendation. All right.
4 Chuck Stribling?

5 MR. STRIBLING: Request permission to explain
6 my vote.

7 MR. CANNON: Yes.

8 MR. STRIBLING: I support the notion of the
9 motion and -- but unfortunately part of the language, I
10 think, could be very problematic for other State Plan
11 states when it comes to being forced to mandate -- if
12 OSHA promulgated such a rule compelling us to
13 incorporate an ANSI standard brings up a host of
14 challenges for us to pass as state law. That said, I
15 would want to speak with my constituency on the
16 positions it would put them in and the ability to adopt
17 a rule. So as I said before, I support the sentiment
18 of the motion. But until I can speak about it with the
19 -- my constituency, I'll abstain.

20 MR. CANNON: Okay. Thank you, Chuck.

21 Richard Tessier?

22 MR. TESSIER: Yes.

1 MR. CANNON: Chris Cain?

2 MS. CAIN: Yes.

3 MR. CANNON: Chris Fought?

4 MR. FOUGHT: Yes.

5 MR. CANNON: Fravel Combs?

6 MR. COMBS: Abstain.

7 MR. CANNON: Cindy DePrater?

8 MS. DEPRATER: No.

9 MR. CANNON: Scott Mabry?

10 MR. MABRY: So I got to speak to it as Chuck
11 did. I'm of the same mindset Chuck is right now on the
12 vote. And given that, I'm going to vote no.

13 MR. CANNON: Wes Wheeler?

14 MR. WHEELER: No.

15 MR. CANNON: Greg Sizemore?

16 MR. SIZEMORE: Qualified same sentiments as
17 the others. No.

18 MR. CANNON: Mark Mullins?

19 MR. MULLINS: Yes.

20 MR. CANNON: Palmer Hickman?

21 MR. HICKMAN: Yes.

22 MR. CANNON: Randall Krocka?

1 MR. KROCKA: Yes.

2 MR. CANNON: Scott Earnest?

3 MR. EARNEST: I'm going to abstain.

4 MR. CANNON: Ron Sokol?

5 MR. SOKOL: Yes.

6 MR. CANNON: All right. Let me do the tally
7 here. All right. Two abstentions -- and -- hold on.
8 Pardon me while I try to do my math here. My
9 handwriting was screwy. One, two, three. Oh, there it
10 is. I missed one.

11 MR. KETCHAM: Kevin, this is Scott, Scott
12 Ketcham.

13 MR. CANNON: Yes.

14 MR. KETCHAM: Did you vote on this? Did you
15 state your position on this?

16 MR. CANNON: Yeah. I am voting no.

17 MR. KETCHAM: Okay. I just wanted to clarify.

18 MR. CANNON: All right. So we have seven who
19 voted in favor, three abstentions and five no votes.
20 I'm just going back, double-checking my math before I
21 make the announcement. All right. So by my count, it
22 looks like motion failed.

1 MR. HICKMAN: Mr. Chairman, Palmer Hickman,
2 employee rep.

3 MR. CANNON: Yes, Palmer?

4 MR. HICKMAN: Could you explain how it failed?
5 I heard you say seven to five but I --

6 MR. CANNON: I mean -- I'm sorry. Motion --
7 no. I was doing the wrong math. Seven yes, five no,
8 three abstentions. Motion passed. So Scott Ketcham,
9 what would be the next steps on this?

10 MR. KETCHAM: Well, Kevin, what I would say is
11 ACCSH has made a recommendation. And it is on the
12 record. And at this point, it will be submitted
13 through the meeting. And at this point, the results of
14 that meeting will be spun up to us. And we will take
15 it as advice from the committee.

16 MR. CANNON: All right. All right.

17 MR. KETCHAM: One question. This is Scott
18 again. Joey, just from a legal perspective as far as
19 seven to five with three abstentions, I just wanted to
20 make sure there is no legal clarifications there on
21 that.

22 MR. GILLILAND: This is Joey Gilliland, ACCSH

1 counsel. I believe the recommendation -- I believe the
2 official recommendation of the whole committee would
3 need the majority vote. But also the regulations allow
4 -- whether or not there is a majority allowed, the
5 recommendation to be submitted with the list of who
6 supported and who opposed it.

7 MR. KETCHAM: Okay. I just wanted to make
8 sure that counsel was in agreement that the
9 recommendation passed.

10 MR. COMBS: Mr. Chairman, Fravel Combs,
11 employer representative. Can we make another motion
12 now to ask OSHA to come in and provide an update, which
13 I think we may get better response. Personally, I'd
14 like to know a little more about the issue.

15 MR. CANNON: Certainly. Would you like to put
16 forward a motion?

17 MR. COMBS: Yeah. I don't have the language
18 here in front of me, but, yes, I'd like to make a
19 motion that -- from the ACCSH committee that OSHA
20 provide update on the Subpart Q progress since the 2011
21 committee and report out at our next committee meeting,
22 full meeting.

1 MR. CANNON: Any second to that motion?

2 MS. CAIN: Chris Cain, second.

3 MR. CANNON: Any discussion? All right.

4 Let's vote on this motion that's before the committee.

5 Chuck Stribling?

6 MR. STRIBLING: Yes.

7 MR. CANNON: Richard Tessier?

8 MR. TESSIER: Yes.

9 MR. CANNON: Chris Cain?

10 MS. CAIN: Yes.

11 MR. CANNON: Chris Fought?

12 MR. FOUGHT: Yes.

13 MR. CANNON: Cindy DePrater?

14 MS. DEPRATER: Yes.

15 MR. CANNON: Scott Mabry?

16 MR. MABRY: Yes.

17 MR. CANNON: Wes Wheeler?

18 MR. WHEELER: Yes.

19 MR. CANNON: Greg Sizemore?

20 MR. SIZEMORE: Yes.

21 MR. CANNON: Mark Mullins?

22 MR. MULLINS: Yeah.

1 MR. CANNON: Palmer Hickman?

2 MR. HICKMAN: Yes.

3 MR. CANNON: Randall Krocka?

4 MR. KROCKA: Yes.

5 MR. CANNON: Scott Earnest?

6 MR. EARNEST: Yes.

7 MR. CANNON: Ron Sokol?

8 MR. SOKOL: Yes.

9 MR. CANNON: All right. So motion passes for
10 the record of construction to provide an update to the
11 ACCSH on, I guess, past regulatory efforts on Subpart
12 Q. And the vote passed unanimously.

13 Now, Joey, going back to the previous motion
14 and -- could you explain again as far as reporting out
15 the vote breakdown?

16 MR. GILLILAND: Joey Gilliland, ACCSH counsel.
17 Can you actually go through and give me the list of
18 votes as you recorded them?

19 MR. CANNON: All right. Are you prepared?

20 MR. HICKMAN: Yes.

21 MR. CANNON: Okay. So abstentions, Chuck
22 Stribling, Fravel Combs, Scott Earnest. Those who were

1 opposed, Cindy DePrater, Scott Mabry, Wes Wheeler, Greg
2 Sizemore and Kevin Cannon. And those in favor, Richard
3 Tessier, Chris Cain, Chris Fought, Mark Mullins, Palmer
4 Hickman, Randall Krocka and Ron Sokol.

5 MR. GILLILAND: This is Joey Gilliland, ACCSH
6 counsel. So the yea votes did not get a majority of
7 the committee.

8 MR. CANNON: No.

9 MR. GILLILAND: So it's not -- so that is not
10 an official recommendation of the committee.

11 MR. CANNON: And that was what I was thinking.
12 But when Palmer Hickman called it into question --
13 yeah. So can you explain to the committee so that
14 we're all on the same page and have a full
15 understanding?

16 MR. GILLILAND: Joey Gilliland, ACCSH counsel.
17 So as I counted, there are seven of 15 members that
18 voted in favor, which is not a majority of the
19 committee.

20 MR. CANNON: So motion failed?

21 MR. GILLILAND: Correct.

22 MR. FOUGHT: Mr. Chairman, Chris Fought,

1 public representative. So -- and I'm still new to the
2 committee overall. But it's not a simple majority.
3 It's got to be a clear majority of the committee.

4 MS. DEPRATER: Mr. Chairman, this is Cindy
5 DePrater. So abstentions actually don't affect the
6 vote -- actually, they do affect the vote. I'm sorry.
7 They do affect the vote. Abstentions affect the vote
8 if the governing documents define "majority" as either
9 the number of individuals present. There is only two
10 ways it's done, individuals present or the total number
11 of members.

12 MR. CANNON: Or -- right.

13 MS. DEPRATER: So legal counsel is correct in
14 that an abstaining vote leaves you with effectively no
15 votes for those three individuals if that's what it
16 was. So --

17 MR. CANNON: Yes.

18 MS. DEPRATER: -- then it's based on a
19 majority and a fixed number. So in this case, it
20 fails.

21 MR. HICKMAN: Mr. Chairman, this is Palmer
22 Hickman, employee rep.

1 MR. CANNON: Yes. Yes, Palmer.

2 MR. HICKMAN: Yeah. I was wondering if that's
3 perhaps why you considered the motion failed. But I
4 wasn't certain. I am certainly going to take counsel's
5 interpretation of the rules because I certainly don't
6 know more than he. But I know other committees that I
7 work on, NFPA being one, they don't factor abstentions
8 into the vote to see if they, in many cases, have
9 two-thirds consensus. So I am not appealing the
10 ruling. But I just -- you know, just making sure that
11 we're getting it right. Thank you.

12 MR. CANNON: Thank you, Palmer.

13 MS. CAIN: Chris Cain, employee rep. Is there
14 any way I -- you -- that Joey can provide the committee
15 with the voting rules for this committee, how it
16 operates?

17 MR. GILLILAND: I -- this is Joey Gilliland,
18 ACCSH counsel. I can do that. I cannot do that at
19 this exact moment. I will provide that to the
20 committee. And we can clear this up. We can verify if
21 there are any errors. We can clear this up in the
22 future.

1 MR. CANNON: Thank you, Joey. Okay. I'm not
2 for certain if our second public commenter is still
3 available. I will check the roster here. I do see Mr.
4 Fred Coddling. Pardon me. If you are still interested
5 in addressing the group, could you make it so that we
6 could wrap up by 5:30?

7 TERRY: Hello. This is Terry, your operator.
8 Can you please dial star, zero so I can open your line
9 for discussion? Again, please dial star, zero so I can
10 open your line.

11 MR. CANNON: Is Fred still with us?

12 TERRY: He's just signaled. Bear with me one
13 moment. Let me check and see if that's him. When I
14 called out the line -- I apologize -- I did get no
15 response.

16 MS. CAIN: Mr. Chairman, this is Chris Cain.
17 Before you adjourn the meeting, I'd like to say
18 something.

19 MR. CANNON: Please, Chris.

20 MS. CAIN: So I just wanted to -- this is
21 Chris Cain, employee rep. I wanted to express that I
22 was very disappointed this -- earlier today's meeting

1 that we did not have an opportunity to have any
2 questions answered or discussion with Ms. Sweatt and
3 that the inability to address concerns of the
4 construction industry as it relates to OSHA's policies
5 to COVID-19 have not been asked for and have apparently
6 been actively dissuaded during this meeting.

7 We have people on this committee who have been
8 working nonstop since the beginning of the pandemic to
9 address worker safety and health in the construction
10 industry. We have some of the leading employers and
11 associations in the nation on this committee who could
12 provide very valuable advice to the agency to deal with
13 COVID-19. We have employee representatives who have
14 been working triple time to try to protect workers in
15 this regard.

16 North America's Building Trades Union has
17 advocated directly to the Secretary of Labor for a
18 standard to protect workers against COVID-19 and has
19 not done so in any public forum until now. This
20 information from the -- our industry would be very
21 valuable for OSHA to do a better job to provide
22 guidance and establish a standard to protect workers.

1 And that's just highly disappointing that not one
2 person on this committee has been asked their opinion
3 and that we have not been given any opportunity to
4 share our experience and some of the success stories of
5 what we're seeing in the industry, as well as some of
6 the challenges that continue.

7 There is a lot of challenges that continue.
8 And it's going to get a lot worse for our workers
9 before this pandemic is over. And I just wanted to
10 express my extreme displeasure towards OSHA at this
11 lack of attention to this overwhelming problem we're
12 all facing on behalf of North America's Building Trades
13 Union. Thank you.

14 MR. CANNON: Thank you, Chris. Any other
15 closing comments?

16 MR. GILLILAND: Kevin, this is Joey Gilliland,
17 ACCSH counsel again. Can I enter the exhibits before
18 you adjourn?

19 MR. CANNON: Yes.

20 (Exhibit Nos. 1 through 15 were
21 marked for identification.)

22 MR. GILLILAND: There are several. I'm going

1 to designate as Exhibit 1 the construction update
2 presentation from Scott Ketcham. Exhibit 2, the
3 PowerPoint presentation "It's Not Just Dust" from Sven
4 Rundman. Exhibit 3, a PowerPoint presentation on
5 updating OSHA's construction industry standard for
6 powered industrial trucks.

7 Exhibit 4, the presentation on Hazard
8 Communication Standards update. Exhibit 5, Education
9 and Training and Outreach Workgroup, June 30, 2020
10 meeting minutes. Exhibit 6, the presentation from Mr.
11 Rank of the Ironworkers on falls and trip hazards. And
12 Exhibit 6 (sic), the presentation from Mr. Shanahan
13 from the National Roofing Contractors Association. And
14 Exhibit 8, the Emerging and Current Issues Workgroup,
15 March 5, 2020, meeting minutes.

16 Exhibit 9, Emerging and Current Issues
17 Workgroup, June 30, 2020, meeting minutes. Exhibit 10,
18 the Michelle Walker presentation on suicide in the
19 construction industry. Exhibit 11, the talking points
20 for Tom Irving on suicide and opioids in construction.
21 And Exhibit 12, the opening safety moment from co-chair
22 Greg Sizemore. Exhibit 13, Willis Towers Watson's

1 presentation on mental health and suicide in
2 construction. Exhibit 14, CPWR presentation from Chris
3 Rodman on opioid awareness and training. And Exhibit
4 15, Emerging and Current Issues Workgroup meeting
5 presentation to the full committee on opioids and
6 suicides. We'll move -- enter those into the record.
7 That's all.

8 TERRY: Excuse me, Chairman. This is Terry --

9 MR. CANNON: Yes?

10 TERRY: -- the operator. Fred Coddling --

11 MR. CANNON: Yes.

12 TERRY: -- has come online if you would like
13 him to speak.

14 MR. CANNON: Fred, are you able to hear me?

15 TERRY: Bear with me one moment. Let me open
16 his line.

17 A PARTICIPANT: I'm going to guess they are
18 not going to be done by 5:30.

19 MR. CANNON: No.

20 MR. CODDING: Kevin?

21 MR. CANNON: Yes?

22 MR. CODDING: Yeah. I think you can hear me

1 now. She tried to tie me in before but it didn't work.
2 For those who are still on the line, I am Fred Coddling.
3 I'm executive vice president of the National
4 Association of Reinforcing Steel Contractors. We
5 worked under Reinforcing Steel and Post-Tensioning
6 Standard in 2010, 2011. We worked with a coalition of
7 interested parties. And your records reflect we
8 appeared before ACCSH in July of 2011.

9 And Kevin, I understand that we should -- that
10 was a decade ago. We were astonished that OSHA did not
11 follow through to adopt the standard in light of the
12 many exposures to dangers to workers in the field. I
13 represent employers. I appeared at ANSI, which adopted
14 the standard, you know, now. California has done so,
15 which Washington State is going to do so. And finally,
16 last December here in Washington, D.C. at a safety
17 roundtable meeting, Scott Ketcham, during a break, came
18 out and stated to me, "We're going to do something with
19 a proposal."

20 I have heard nothing further from you. We
21 need the standard. I speak for contractors who perform
22 the work. And there are employees who encounter

1 atrocious site conditions, exposure to collapses and
2 nonexistent safeguards when post-tensioning is being
3 installed. We request -- and as I heard with strong
4 support from some of the ACCSH members today -- that
5 the proposed standard be put back on the fall OSHA
6 agenda for consideration.

7 And that was going to be my request today as
8 well as those who confront the workplace hazards every
9 day while they are installing reinforcing steel and
10 post-tensioning, as well as all of the others who are
11 on the jobsite. I thank you for the time. I'm sorry I
12 didn't get connected before you had that vote. Thank
13 you.

14 MR. CANNON: Thank you, Fred, and appreciate
15 your comments. I think, you know, if you were on the
16 line, you heard that we did pass a recommendation that
17 OSHA will provide us with an update on the status of
18 the rulemaking for Subpart Q. So the discussion is not
19 over. We will have another opportunity at a future
20 meeting to talk about it. So appreciate your comments
21 and --

22 MR. CODDING: Well --

1 MR. CANNON: -- hopefully you'll join us when
2 this is --

3 MR. CODDING: Let's not just keep proposing.
4 Let's do it.

5 MR. CANNON: I understand, sir. And hopefully
6 you can join us at the future meeting when this topic
7 comes up again.

8 MR. FOUGHT: Mr. Chairman, this is Chris
9 Fought, public representative. I do have a question
10 regarding this issue still. Since it had already been
11 previously advanced to OSHA for the rulemaking, what's
12 preventing it from being able to be placed on the fall
13 agenda?

14 MR. CANNON: They -- and again, as I
15 mentioned, you know, they've put out a request for
16 information on it before. And I think it would be good
17 for the committee to understand, you know, what the
18 docket says and, you know, what their position might be
19 as it relates to the information that was received.

20 MR. FOUGHT: I would be very interested --
21 again, this is Chris Fought, public representative.
22 I'm very interested to hear an explanation as to why

1 this has dropped off the radar for so many years.

2 MR. CANNON: Well, as far -- you know, the
3 request for information is not a commitment to do
4 anything. It's just to gather information to help
5 inform their future decisions. So that's what we're
6 seeking. Any other closing comments? I'm sorry.
7 Someone was speaking. All right. Not hearing any
8 other comments, do we have a motion to adjourn?

9 MR. HICKMAN: So moved. Palmer Hickman,
10 employee rep.

11 MR. FOUGHT: Seconded. Chris Fought, public
12 representative.

13 MR. CANNON: All right. Meeting adjourned.
14 Thank you all for two good days of meetings. Look
15 forward to the next.

16 (Whereupon, at 5:34 p.m., the meeting was
17 adjourned.)

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