

**From:** [Michaels, David - OSHA](#)  
**To:** [Sloane, Walter - OSHA CTR](#)  
**Subject:** FW: Diane Stein contact info at Teamsters  
**Date:** Thursday, June 18, 2015 3:47:04 PM

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**From:** Diane Stein [<mailto:dstein@local237.org>]  
**Sent:** Thursday, January 02, 2014 1:55 PM  
**To:** Michaels, David - OSHA  
**Subject:** RE: Diane Stein contact info at Teamsters

I can't. We're just lending the space (and I'll crash the dinner to hang with everyone). You could try either John Scardella or Les Leopold. I'll forward you the email I have from them, but it's scant on details.

Best regards,

Diane

Diane Stein  
Safety and Health Coordinator  
Local 237, IBT  
216 West 14th Street  
New York, NY 10011  
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**From:** Michaels, David - OSHA [<mailto:Michaels.David@dol.gov>]  
**Sent:** Thursday, January 02, 2014 1:46 PM  
**To:** Diane Stein  
**Subject:** RE: Diane Stein contact info at Teamsters

[Hi Diane. I'm looking forward to it. Can you give me a schedule of the evening's events?](#)

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**From:** Diane Stein [<mailto:dstein@local237.org>]  
**Sent:** Thursday, January 02, 2014 1:18 PM  
**To:** Michaels, David - OSHA  
**Subject:** Diane Stein contact info at Teamsters

Hi David,

I understand you'll be at our union hall on Thursday night for the Steelworkers graduation dinner. Cool! It'll be good to see you. If you need anything, feel free to call. My cell is 646 384 9621. I have a grievance hearing from about 12:30 – 2:30 that day, but should otherwise be in the office. Do you know when you'll arrive?

D

Best regards,

Diane

Diane Stein  
Safety and Health Coordinator  
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**From:** [Eric Frumin](#)  
**To:** [Michaels, David - OSHA](#); [Berkowitz, Deborah - OSHA](#)  
**Subject:** 2003 warehouse case in Reg. 7  
**Date:** Monday, January 28, 2013 5:00:02 PM  
**Attachments:** [Supervalu ergo 5.a.1 OSHA1 A-B.pdf](#)  
[Supervalu ergo 5.a.1 closing conf.pdf](#)  
[Supervalu ergo 5.a.1 citation.pdf](#)  
[OSHA-SuperValu-Rule26-Fatallah-Draft-Nov-2-2004.pdf](#)  
[Supervalu ergo 5.a.1 settlement searchable.pdf](#)  
[Introduction to LMM.pdf](#)  
[LMM Distribution.pdf](#)  
[Bill-LMM-Validation Ergo 2000.pdf](#)

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Here are some of the documents from the successful ergonomics effort at the SuperValu, including the inspection, citation, expert report in the Review Commission case, and settlement.

For additional information about the LMM device that was used so successfully in this case, attached is the explanation of it prepared by the Ohio State Univ group which developed it, as well as an example of its application in a Distribution worksite.

Also attached is the OSU group's validation study published in 2000 confirming both the value of the LMM as an assessment tool of risk, as well as a predictive tool to prospectively estimate the effectiveness of specific interventions among an exposed population.

I am also finalizing the available information about the SuperValu's successful implementation of abatement measures, including the ways in which it increased production and productivity as well as workers earnings under a new incentive plan.

The Solicitor who handled the Supervalu case is Kathy Butterfield from the Reg. 7 office. She retired recently, but is still very happy with the process and outcomes in this case. Her email and phone are:

[handkb@gmail.com](mailto:handkb@gmail.com)

(913) 341-0654

I hope you find these helpful in considering the current situation in the warehousing industry. I assume that Agency staff familiar with ergonomics issues are already well aware of the immense value of the LMM device.

Eric

**Eric Frumin**

Health and Safety Director

Change to Win

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## Prospective validation of a low-back disorder risk model and assessment of ergonomic interventions associated with manual materials handling tasks

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*Keywords:* Industrial ergonomics; Low-back disorder risk; Validation; Workplace interventions; Manual materials handling.

The evaluation of low-back disorder risk associated with materials handling tasks can be performed using a variety of assessment tools. Most of these tools vary greatly in their underlying logic, yet few have been assessed for their predictive ability. It is important to document how well an assessment tool realistically reflects the job's injury risk, since only valid and accurate tools can reliably determine whether a given ergonomic intervention will result in a future reduction in back injuries. The goal of this study was to evaluate how well a previously reported low-back disorder (LBD) risk assessment model (Marras *et al.* 1993) could predict changes in LBD injury rates as the physical conditions to which employees are exposed were changed. Thirty-six repetitive materials handling jobs from 16 different companies were included in this prospective cohort study. Of these 36 jobs, 32 underwent an ergonomic intervention during the observation period, and four jobs in which no intervention occurred served as a comparison group. The trunk motions and workplace features of 142 employees performing these jobs were observed both before and after workplace interventions were incorporated. In addition, the jobs' LBD rates were documented for these pre- and post-intervention periods. The results indicated that a statistically significant correlation existed between changes in the jobs' estimated LBD risk values and changes in their actual low-back incidence rates over the observation period. Linear and Poisson regression models also were developed to predict a change in a job's incidence rate and the number of LBD on a job respectively, as a function of the job's risk change using this assessment model. Finally, this prospective study showed which ergonomic interventions consistently reduced the jobs' mean low-back incidence rates. These results support use of the LBD risk model to assess accurately a job's potential to lead to low-back injuries among its employees.

### 1. Introduction

The value of incorporating ergonomic principles into the industrial work environment to control musculoskeletal injuries, such as low-back disorders (LBD), has been debated extensively in recent years. The literature contains numerous descriptions of ergonomic risk assessment tools and techniques, and case

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studies abound that support the positive impact that ergonomic interventions have in the physical workplace (e.g. Garg and Owen 1992, Aarås 1994, US General Accounting Office 1997). Reported benefits of such interventions include lowering the numbers and costs of injuries, reducing discomfort and fatigue, and improving productivity. However, in some parts of the world these claims are viewed as contentious. Some contend that adequate proof of the benefits of ergonomics concepts does not exist for the control of work-related musculoskeletal disorders (i.e. Bigos *et al.* 1991, Hadler 1997). Critics of the ergonomic approach often cite specific cases of workplace interventions that have not reduced the risk, or, even increased the risk, of LBD. Few workplace studies exist that have scientifically explored this issue.

Several risk assessment tools for the low back have been reported in the literature in recent years (Chaffin and Park 1973, NIOSH 1981, Snook and Ciriello 1991, Waters *et al.* 1993). Historically, these tools have been developed based upon hypotheses about how the low back is injured or consensus among different assessment techniques. However, few validation studies have been reported in the workplace to test whether these tools are indeed capable of predicting risk. This fact has been recognized by Viikari-Juntura (1997), who stated, 'The effect of various workplace interventions, attempting to optimise physical load factors, has had fairly little investigation'.

Only a few attempts have been documented to determine how well some of the aforementioned ergonomic tools identified a job's risk to the low back. Marras *et al.* (1999b) compared assessments of jobs using the 1981 and 1991 NIOSH lifting indices (NIOSH 1981, Waters *et al.* 1993) and the psychophysical limits (Snook and Ciriello 1991) with an independent database of manual materials handling (MMH) jobs. The 1981 NIOSH guide and the psychophysical approach lacked risk sensitivity, whereas the 1991 NIOSH lifting equation suffered from a lack of risk specificity. Waters *et al.* (1998) evaluated these tools to assess risk, as well as a three-dimensional Static Strength Prediction Program (Chaffin and Andersson 1994), an energy expenditure prediction program (Garg *et al.* 1986), and the use of heart rate and oxygen consumption. Considerable variability was identified in terms of how each tool estimated risk. Lavender *et al.* (1997) compared four LBD risk tools in the workplace and reported that they do not necessarily measure the same dimensions of low-back risk. This comparison found relatively low intercorrelations (range 0.06–0.42), suggesting that the tools were measuring very different qualities. This study did not relate the assessments to actual risk, indicating that they might have varying levels of validity. The results of these studies suggest that none of the ergonomic assessment tools mentioned had demonstrated its ability to predict reliably a job's level of risk in a prospective study.

Such validations are needed to optimize the design of the workplace. In today's competitive market one can ill-afford to make ergonomic improvements through trial and error. The cost of an incorrect ergonomic intervention is great in that not only are resources wasted on an ineffective risk countermeasure, but also control of the musculoskeletal risk can be delayed (often for years) before it is realised that the solution was ineffective. By this time, more employees have been injured, increased costs are incurred and a competitive advantage over the competition is delayed. Thus, there is a need to develop tools that can effectively describe the degree of risk associated with a workplace design and answer the question of how much exposure to workplace risk factors is too much.

As part of an ongoing research effort to understand low-back disorders, an ergonomic model for assessing LBD risk has been developed, using data from the lumbar motion monitor (LMM). Use of the LMM and LBD risk model as an ergonomic assessment tool, for a variety of repetitive MMH activities, has been documented (Marras *et al.* 1992, 1993, 1995, Gill and Callaghan 1996, Lavender *et al.* 1997). The model estimates the probability that a job will be a member of a 'high risk' group, that is, similar to jobs previously found to have high numbers of LBD associated with them.

This current effort was intended to explore the risk prediction capability of this assessment tool. Specifically, there were two objectives of this study. The first was to test the validity of the LBD risk model by prospectively tracking industrial MMH jobs and comparing both LBD risk and low-back incidence rates at baseline and following an ergonomic intervention to the job. Thus, it was sought to assess whether changes in documented biomechanical stressors (identified via the risk model) were associated with corresponding changes in LBD injury rates. The second objective was to assess the impact of specific categories of ergonomic interventions.

## 2. Method

### 2.1. Approach

The overall objectives of this study were achieved by simultaneously observing recorded LBD rates and predicted LBD risk over a longitudinal period of up to 10 years. During this time, one of two situations was studied — jobs where no workplace changes occurred over the observation period and jobs where ergonomic interventions were incorporated. Job characteristics (used for risk prediction) were assessed for all jobs, and for jobs where changes were made, historical LBD risk trends were monitored during both a pre- and a post-intervention observation period. The type of job change made also was noted.

### 2.2. Description of the jobs monitored

Thirty-six jobs were monitored in this study. They were gathered from 16 separate companies and consisted of a wide range of MMH activities. These jobs included the palletizing and depalletizing of various goods, casting of aluminium parts, forming of rubber products, feeding machines, installing tires on vehicles, cutting soap, moving spools of paper, cleaning parts, handling clothing, welding, processing food, and assembling a variety of consumer products. All jobs were repetitive in nature, in that employees performed the tasks continuously throughout the day, within job cycle times of 1 min or less.

In 32 of the jobs, monitoring was performed over an observation period that consisted of time intervals both before and after job interventions were introduced. These modifications were considered 'ergonomic' by the companies in that they were intended to reduce the jobs' musculoskeletal demands. The interventions included: the addition of lift tables, to raise and lower the products being handled; the installation of lift aids, to provide a mechanical assist in moving products; redesign of the work areas, to make the jobs easier to perform; and the installation of production equipment (e.g. new machinery, semi-automation) in an effort to ease the jobs' demands. All job interventions were designed by the companies and often were specified by employees who did not have formal ergonomics training. In addition to these 32 jobs, four jobs were monitored over the same period in which no changes were made to their materials handling requirements.

### 2.3. Subjects

A total of 142 employees participated in this study. Fifty-seven (71.9% male) were monitored in all jobs before the interventions took place, and 85 (78.8% male) were monitored after these changes were implemented. Roughly 10% of the employees were monitored both pre- and post-intervention. Although differences in trunk motions are known to exist across individuals, Marras *et al.* (1993) reported that this variability was more a function of job design than due to employee differences. Descriptive employee information of those who volunteered is presented in table 1. On average, employees were experienced in performing the jobs on which they were monitored, and they had been employed at their company for a considerable length of time. The anthropometric data indicated that this sample was typical of an industrial working population (Marras and Kim 1993).

### 2.4. Data collection procedure

An effort was made to identify companies considering making ergonomic changes to the jobs. A pool of 60 jobs initially was assessed using the LBD risk model and served as candidates for post-intervention analysis. Follow-up was not possible for 24 of the jobs as they no longer met the study criteria (job elimination, plant closure, process change to the point where materials handling was no longer performed, etc.). Thus, the data were not included in the results presented here, and the analyses were conducted on the remaining 36 jobs. The four jobs in which no intervention occurred were selected based on the random contact of companies who participated in Marras *et al.* (1993), and the identification of jobs where there had been no changes (ergonomic or otherwise) since the job was first monitored.

After a company agreed to participate, injury history records for the jobs were reviewed. This information required the review of several sources, including plant medical records, Workers' Compensation data, and Occupational Safety and Health Administration (OSHA) Form 200 logs, to determine and include only those injuries that were new cases and were actual and recordable low back strains. Reported LBD (i.e. overexertion, strains, sprains) were included; injuries from acute events (e.g. slips and falls, lacerations, contusions) were not used to determine incidence. Company personnel familiar with the jobs were questioned to ensure that the jobs had not changed during the time in which injury records were reviewed. Pre-intervention observation periods ranged from 3.3 to 10.5 years.

A team of researchers from the Biodynamics Laboratory at The Ohio State University then arrived on-site. The material handling components of the job(s) of

Table 1. Descriptive information of the 142 employees monitored.

Variable	Units	Pre-intervention ( <i>n</i> = 57)		Post-intervention ( <i>n</i> = 85)	
		Mean	SD	Mean	SD
Experience with the job	years	3.64	4.16	5.32	5.26
Time with the company	years	9.74	7.70	12.03	9.14
Age	years	35.11	9.15	38.94	10.17
Height	metres	1.74	0.08	1.75	0.09
Weight	Newtons	783.20	145.96	796.64	171.10
Job satisfaction	—	5.44	2.40	6.76	1.97



interest were reviewed, and employees who regularly performed the job and who were doing it at that time were asked to take part in the study. Subjects were randomly selected for this study; < 5% of those approached did not agree to participate. Volunteers gave informed consent, were asked questions about their history with the job and company, and were then measured to obtain anthropometric characteristics. Only individuals with no current low-back pain were monitored. Each employee was fitted with the LMM and accompanying harnesses and asked to return to the job. Employees performed their work for several minutes and on a number of job cycles before data collection began. This was done so the individuals could become accustomed to wearing the device and, thus, perform the job as usual. Then, the trunk motions of the individual and several other relevant workplace factors were recorded as five-to-ten cycles of each job task were performed. One-to-five employees were monitored for each job, though every effort was made to gather data on at least three individuals per job. All individuals were given T-shirts in exchange for their participation.

Data were collected following a job intervention when it was believed employees had become accustomed to the change. The average length of time before the post-intervention data were collected was ~19 months. The exact data collection protocol used pre-intervention was repeated following the job change. To obtain updated incidence rate information for the jobs monitored, each company was contacted at ~6-month intervals for 1–4.5 years.

### 2.5. Apparatus

An LMM gathered trunk kinematic data. It is a lightweight and portable tri-axial electrogoniometer affixed to the back of the employee (figure 1). The device measured the instantaneous position, velocity and acceleration of the lumbar spine relative to the thorax in the lateral, sagittal and twisting planes of the body. Its accuracy in recording trunk motions was reported by Marras *et al.* (1992). The base of the LMM was attached to a waist harness worn by the employee, and its 'spine' slid within a bracket mounted on a harness that fit over the shoulders. Signals from the LMM were transmitted to, and stored on, a portable computer via a digital telemetry system using customized software.

A heavy-duty scale weighed the objects handled by employees, and a force gauge measured the push/pull forces required during the exertion. A tape measure determined the horizontal distance from the employee's L<sub>5</sub>/S<sub>1</sub> joint to the centre of the hands as materials were being moved. The tape measure also recorded other workplace factors such as the vertical origin and destination heights of the objects handled.

### 2.6. Experimental design

An interrupted time-series quasi-experimental design (Campbell and Stanley 1966) was used. With this approach, each job served as its own control before the intervention occurred. The impact, post-intervention, could then be compared with the baseline data.

The independent variable tracked in this study was the type of intervention incorporated into the job. Dependent measures consisted of the following measures:

1. The job's *LBD incidence rate*, adjusted per 100 full-time employees performing the job.



Figure 1. Lumbar motion monitor as worn.

2. *Physical workplace variables*, including the maximum external moment generated about the spine for each job (which was the product of the weight handled and the furthest horizontal distance from the employee's L<sub>5</sub>/S<sub>1</sub> joint to the centre of the hands) and the job's lifting frequency (the total number of material handling tasks required of the job per hour and performed by each employee monitored on the job). Other measures recorded were the vertical start and finish heights of the loads as they were handled and task asymmetry. These variables were collected for use in the database but were found by Marras *et al.* (1993, 1995) not to distinguish between low- and high-risk jobs.
3. *Trunk kinematic variables* collected from the LMM. These included measures of the position, velocity, and acceleration for each job task and were recorded in three-dimensional space.
4. An assessment of the job using the *LBD risk* model. The LBD risk computation was based upon both workplace physical measures and trunk kinematic data. A combination of these variables determined the probability the job would be a member of a group of jobs previously found to have high numbers of LBD, or LBD risk (Marras *et al.* 1993, 1995). The five variables were maximum external moment; lift rate; maximum sagittal flexion, maximum lateral velocity and average twisting velocity.

5. Employee *satisfaction* with the job, on a one-to-ten (low-to-high) scale.

### 2.7. Data analysis

The data first were checked to ensure normality using the Shapiro-Wilks test. Estimates of LBD risk for each job then were computed using the model reported in Marras *et al.* (1993, 1995). In cases where a job had multiple tasks, maximum values were assessed for each of the five variables in the model, across all tasks comprising the job, to determine one measure of LBD risk. It is beyond the scope here to recount the specific procedure for calculating LBD risk; however, for a thorough description, see Marras *et al.* (1999a).

Several analyses compared the computed LBD risk value pre- and post-intervention with the change in incidence rate or other related outcome variables. For these analyses, the effect was calculated as the incidence rate difference due to the intervention. A weighting factor was assigned to each of the 36 jobs based on the amount of data used to compute each job's incidence rate. This factor consisted of the number of hours on the job to which all the employees were exposed over the course of a year and the number of years of medical records available from each company. The weight given to each individual incidence rate was in units of person-years of exposure, both pre-intervention (PYrs<sub>pre</sub>) and post-intervention (PYrs<sub>post</sub>). The formula computed the weighting for changes in incidence due to the intervention was:

$$\text{Weight factor} = (\text{PYrs}_{\text{pre}} \times \text{PYrs}_{\text{post}}) / (\text{PYrs}_{\text{pre}} + \text{PYrs}_{\text{post}}). \quad (1)$$

The formula gave increased weight to jobs having more injury history and also to jobs with a more equal balance of exposure pre- and post-intervention. These weighting factors were used in all analyses in which the outcome variable involved incidence rates. Before the intervention, the total number of person-years across the 36 jobs was 3202. After the job change, it was 1244 person-years. For the four comparison jobs, the total amount of medical information was divided into two equal time periods, and 'pre-' and 'post-incidence' rates then were computed.

To assess whether a change in LBD risk due to an intervention would correspond to a subsequent change in incidence rate, three statistical techniques were employed. First, a Pearson correlation between LBD risk change and incidence rate change was computed to evaluate the association between these two measures. This analysis tested the null hypothesis that the correlation between these two variables was zero. To help understand the nature of this correlation, descriptive analyses categorized the jobs according to the degree of LBD change that occurred with the interventions. Risk categories were derived from the initial data set of LBD risk from our original study (Marras *et al.* 1993). This previous work involved over 400 MMH jobs and provided benchmark values for categorizing jobs according to LBD risk. The data describing high risk (incidence rate > 12) and low risk jobs (incidence rate = 0) from that data set are shown in figure 2. In this data set, note that no jobs with LBD risk > 70% had zero low-back incidence associated with them. Thus, jobs having risks > 70% are referred to as 'high risk' jobs. In contrast, a large percentage of the jobs with LBD risk of 30% or less reported no low-back disorders, and these were considered 'low risk'. The remaining jobs, having LBD risk between 30 and 70%, were considered 'medium risk.'

Second, to develop more specific quantitative relationships between these variables, a bivariate linear regression model was developed with the outcome variable being the change in incidence rate following the intervention, and two

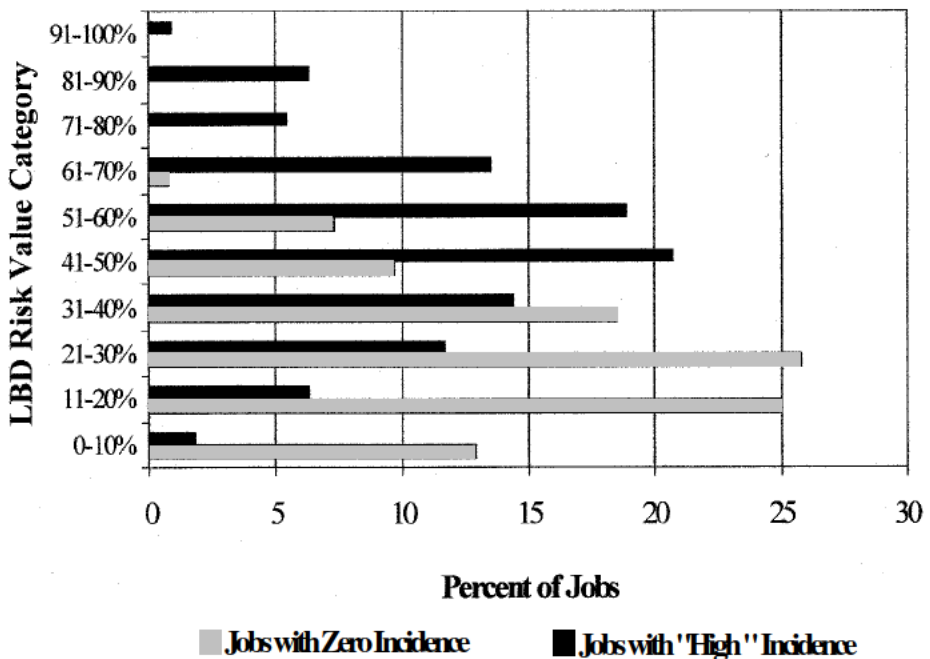


Figure 2. LBD risk distribution of jobs having either low or high incidence rates (data from Marras *et al.* 1993).

predictors being  $LBD\ risk_{pre}$  and  $LBD\ risk_{post}$ . This model allowed for prediction of the incidence rate change based on separate values of LBD risk (those pre- and post-intervention), while the univariate model (the correlation) only considers the difference in LBD risk. The fit of the bivariate regression model was checked by plots of residuals versus fitted values, quantile plots of residuals and Cook's D (Rawlings 1988).

Finally, Poisson regression further evaluated this relationship. Analysis was performed since the aforementioned linear regression model required an outcome variable being approximately normally distributed (e.g. change in incidence rate). The Poisson approach considered the outcome variable as the number of low-back incidences on a job, post-intervention. This was numerical, that is, it took on 0, 1, 2, etc. The method of Poisson regression was appropriate to model the distribution of this variable as a function of one or several predictors. The method of maximum likelihood was used to fit the Poisson regression model. The model and techniques of fitting, checking and interpreting it are discussed in McCullagh and Nelder (1989). To supplement and check the statistical validity of the weighted linear regression analysis, several Poisson regression models were run using various combinations of the predictors  $Incidence\ Rate_{pre}$ ,  $LBD\ risk_{pre}$ ,  $LBD\ risk_{post}$ , and numerical and relative differences in LBD risk. Plots of deviance and Pearson residuals were used to check model fit. Computations were carried out using the general linear model function in the statistical programming language S+ Version 5.1 (Statistical Sciences 1999).

A second set of evaluations tested whether the ergonomic interventions would produce significant changes in the jobs' LBD rates. Thus, for all outcome variables, mean differences due to the interventions were computed, for jobs grouped by type

of intervention. Two-sample *t*-tests with the pooled estimate of variance examined whether a change in the mean of a variable due to the intervention was significantly different from the change in the comparison group of four jobs in which no intervention occurred. Job weights were used as defined above for the tests involving incidence rate. For the seven workplace, trunk kinematic and psychosocial variables reported here, unweighted means were computed.

### 3. Results

Descriptive information characterizing the 36 jobs is shown in table 2. These jobs were grouped according to the type of intervention implemented. These data include exposure time, number of new low-back cases and LBD rate, and the LBD risk for the jobs assessed. In most cases, values were higher in the pre-intervention data.

#### 3.1. LBD risk model validation

The Pearson correlation coefficient between LBD risk differences and incidence rate differences was statistically significant ( $r = 0.4707$ ,  $p = 0.038$ ), indicating a positive and significant correlation between changes in LBD risk following an intervention and changes in the job's LBD incidence rate. This provides an initial indication that differences in workplace characteristics and associated employee trunk motions due to ergonomic interventions were associated with LBD in the workplace.

The nature of this relationship is further characterized in figure 3. It describes how changes in estimated LBD risk were associated with changes in observed LBD incidence rates as a function of the degree to which LBD risk was controlled in the pool of observed jobs. In figure 3, four sets of columns classify the jobs according to their post-intervention risk classification (labelled as 'LBD risk Category, Post-Intervention'). Post-intervention categories were high (LBD risk > 70%); low (LBD risk < 30%); and medium risk (LBD risk between 30 and 70%). Additionally, the risk is shown associated with the comparison group of four jobs that did not undergo an ergonomic intervention. The other axis of figure 3 indicates the observed incidence rate (both pre- and post-intervention) and the estimated LBD risk (pre- and post-intervention). All pre-intervention measures of the job were medium-to-high risk, and all incidence rates were similar, ~10–11 LBD per 100 full-time employees per year. Note the agreement between the changes in the pre- and post-intervention LBD risk and pre- and post-intervention observed LBD rates. Figure 3 shows that when the LBD risk model predicted little change in the risk, little change in the incidence rate actually occurred. When large changes in risk were estimated, large changes in the incidence rate occurred. Moderate changes in risk and incidence rates also agreed well. Finally, when there was no intervention, only small changes in the mean incidence rate and mean LBD risk occurred.

Table 3 reports the means and 95% confidence intervals for the data shown in figure 3. These confidence intervals for LBD risk and incidence rate overlap considerably for both the comparison group and those jobs remaining high-risk following the job intervention. A two-sample *t*-test confirmed there was no statistical significance between the means for either incidence rate or LBD risk in these two groups. However, there was little overlap among the group of 19 jobs defined as medium-risk post-intervention, and no overlap, and a wider separation, between confidence intervals for the seven jobs that were changed to low-risk. *T*-tests computations found both post-intervention incidence rates and LBD risk to be significantly lower than the comparison group for these two categories of jobs.

Table 2. Descriptive information for the 36 jobs tracked for this study. Jobs are separated according to the type of intervention put in place, and data for the comparison group also are included. Incidence rates are given per 100 full-time employees.

Job	Pre-intervention data				Intervention type	Post-intervention data			
	Person-years	No. of new low-back cases	Incidence rate	LBD risk		Person-years	No. of new low-back cases	Incidence rate	LBD risk
1	41.8	10	23.9	78.0	Lift table	12.5	2	16.0	78.0
2	27.0	5	18.6	68.0		16.3	0	0.0	53.0
3	21.0	3	14.3	67.0		3.8	0	0.0	54.0
4	19.3	2	10.4	62.0		13.2	2	15.1	60.0
5	111.9	11	9.8	78.0		80.4	2	2.5	60.0
6	141.8	13	9.2	82.0	19.2	0	0.0	43.0	
7	80.0	6	7.5	82.0	63.8	1	1.6	42.0	
8	19.3	1	5.2	66.0	13.2	0	0.0	56.0	
9	66.0	17	25.8	91.0	Lift aid	30.2	3	9.9	43.0
10	14.3	3	20.9	60.0		1.0	0	0.0	27.0
11	35.9	7	19.5	75.0		14.2	0	0.0	49.0
12	13.3	2	15.0	60.0		3.7	0	0.0	37.0
13	21.0	3	14.3	80.0		11.2	0	0.0	27.0
14	24.0	3	12.5	72.0	7.8	0	0.0	25.0	
15	139.5	16	11.5	43.0	69.0	5	7.3	6.0	
16	103.5	10	9.7	56.0	93.2	5	5.4	41.0	
17	21.2	1	4.7	72.0	10.9	0	0.0	27.0	
18	138.0	6	4.4	69.0	124.2	3	2.4	52.0	
19	53.1	8	15.1	85.0	Redesign	53.1	3	5.7	86.0
20	115.6	14	12.1	40.0		79.3	14	17.7	47.0
21	20.0	2	10.0	50.0		20.0	0	0.0	42.0
22	20.0	2	10.0	40.0		20.0	1	5.0	29.0
23	53.4	5	9.4	90.0		26.6	3	11.3	42.0
24	161.9	11	6.8	88.0	48.3	8	16.6	84.0	
25	648.9	36	5.6	41.0	111.2	5	4.5	59.0	
26	409.8	8	2.0	63.0	70.2	4	5.7	71.0	
27	102.5	2	2.0	50.0	17.6	0	0.0	63.0	
28	28.0	4	14.3	66.0	Equip-ment	12.0	0	0.0	54.0
29	101.3	7	6.9	84.0		59.7	7	11.7	67.0
30	105.8	6	5.7	95.0		13.5	0	0.0	76.0
31	52.9	3	5.7	64.0	13.5	0	0.0	24.0	
32	36.8	2	5.4	78.0	29.7	1	3.6	73.0	
33	129.8	18	13.9	69.0	None	22.2	3	13.5	76.0
34	80.9	9	11.1	42.0		16.8	2	11.9	34.0
35	22.7	2	8.8	65.0		22.7	2	8.8	65.0
36	20.0	1	5.0	45.0		20.0	0	0.0	38.0

The relationship between incidence and risk was further analysed using a bivariate linear regression model (table 4). From this model it was determined that both assessments of LBD risk (pre- and post-intervention) significantly contributed to predicting the change in a job's LBD rate. This finding indicates that, by determining the LBD risk associated with a MMH job both pre- and post-intervention, the difference in the *rate* of LBD expected on that job can be determined reliably. This linear regression analysis was appropriate because the outcome variable (difference in incidence rate due to an intervention) satisfied the analysis assumptions (as was confirmed by residual plots). In addition, the data were

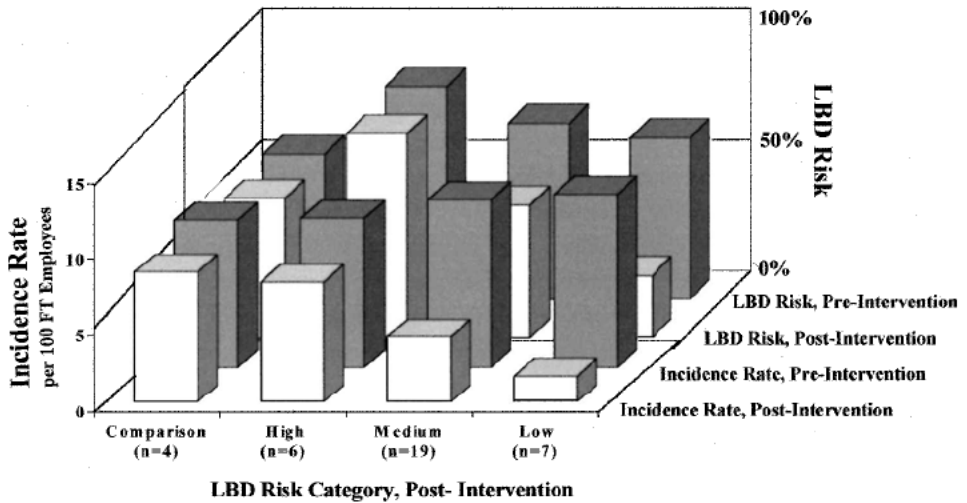


Figure 3. Differences in LBD risk and low-back incidence rates as a result of job interventions. The three categories of LBD risk following the intervention include: high (LBD risk  $\geq 70\%$ ), medium (LBD risk between 30 and 70%) and low (LBD risk  $\leq 30\%$ ). Differences are contrasted with changes in the comparison group, in which no job intervention was made.

Table 3. Means and 95% confidence intervals for the categories shown in figure 3. Data are presented for LBD risk computations and incidence rates, both pre- and post-intervention, grouped by the post-intervention LBD risk category.

LBD risk category, post-intervention				
Comparison (n= 4)	High (n= 6)	Medium (n= 19)	Low (n= 7)	
Mean (95% CI)	Mean (95% CI)	Mean (95% CI)	Mean (95% CI)	
55.2 (33.4–77.1)	81.2 (69.6–92.7)	67.2 (59.8–74.6)	61.6 (47.6–75.6)	LBD risk, pre-intervention
53.3 (20.7–85.8)	78.0 (71.7–84.3)	50.7 (46.5–54.9)	23.6 (16.3–30.9)	LBD risk, post-intervention
9.7 (3.7–15.7)	9.8 (1.2–18.4)	11.0 (8.2–13.8)	11.4 (6.3–16.4)	Incidence rate, pre-intervention
8.6 (–1.0–18.2)	7.9 (0.8–15.1)	4.3 (1.5–7.1)	1.8 (–1.1–4.6)	Incidence rate, post-intervention

weighted to account for differences in exposure time, particularly the smaller periods of time observed post-intervention.

Table 2 indicates that zero incidences were reported in several of the jobs for the post-intervention observation period. This could be due to the effects of the changes themselves or to the shorter post-intervention exposure periods. Thus, it was decided that a supplemental evaluation also was needed as a check of the linear regression analysis. A Poisson regression analysis was employed that allowed the zero incidence rates to be considered in the analysis. The resulting Poisson regression model reported here is shown in table 5. Using this analysis, two variables were used to predict the *number* of low-back incidences on a job post-intervention, consisting of

Table 4. Results of a weighted bivariate linear regression model to predict a job's incidence rate change due to an intervention. Both assessments of the job's LBD risk (i.e. pre- and post-intervention) significantly contributed to this model ( $r^2 = 0.23$ ).

Variable	Parameter estimate	Standard error	<i>t</i>	<i>p</i>
Intercept	2.582	3.989	0.647	0.522
LBD risk <sub>pre</sub>	0.136	0.061	2.216	0.034
LBD risk <sub>post</sub>	-0.163	0.056	-2.889	0.007

Table 5. Results of the Poisson regression analysis, with the outcome variable, number of incidence following an ergonomic intervention, and two estimators, the pre-intervention incidence rate and the change in LBD Risk due to intervention. Incidence rates were weighted according to the years of job exposure that generated the LBD computation. Both predictor variables listed were statistically significant.

Variable	Parameter estimate	Standard error	<i>t</i>	<i>p</i>
Intercept	-0.524	0.234	-2.236	0.032
Incidence <sub>pre</sub>	0.054	0.021	2.534	0.016
LBD risk difference	-0.018	0.007	-2.728	0.010

the job's pre-intervention incidence rate and the change in LBD risk following the intervention. Both measures significantly influenced this outcome variable. In addition, the plot of deviance residuals versus fitted values showed a satisfactory random appearance of these residuals. Thus, both the linear and the Poisson regression analyses presented indicate a clear association between incidence rate changes and computed LBD risk.

### 3.2. Impact of ergonomic interventions

A second goal of this study was to determine if the type of intervention employed had an effect on a number of outcome measures. In eight of the 36 jobs analysed, a lift table was used as an ergonomic intervention. In 10 of the jobs, a lift aid, such as an overhead pulley system or vacuum hoist, was put in place. For nine of the jobs, the work area was redesigned in some manner (e.g. improvements to existing manufacturing processes, use of various 'ergonomic' devices other than lift tables or lift aids) in an effort to produce a more efficient work arrangement and to reduce employees' exposure to suspected LBD risk factors. Five of the jobs involved the installation of new equipment (other than lift tables and lift aids) that the company believed would improve the jobs' productivity levels and reduce the physical workload required by employees. The remaining four jobs had not changed at all in terms of how they were structured and their work requirements, though data were collected at two different times. These four jobs served as the comparison group.

Table 6 describes the impact these interventions had on low-back incidence rates. The values were weighted according to the amount of exposure data available from the company. Of the specific intervention groups listed in table 6, half (lift tables and lift aids) resulted in a significant incidence rate reduction. Lift tables significantly reduced the mean incidence rate by 7.42 LBD per 100 full-time employees. Lift aids also reduced the LBD rates, by over six injuries per 100 full-time employees. The other job interventions (work area redesign and newly installed equipment) resulted in no significant improvements in incidence rate.



Table 6. Mean difference in LBD incidence rates, and corresponding confidence intervals, grouped according to the type of job intervention. T-tests were computed in relation to the comparison groups of jobs in which no intervention was made.

Type of Intervention	N	Mean difference	SD	Incidence rate		
				95% CI	<i>t</i>	<i>p</i>
Lift table	8	7.42	4.56	6.74–8.26	2.70	0.001 <sup>+</sup>
Lift aid	10	6.18	5.52	5.25–6.98	1.84	0.045 <sup>+</sup>
Redesign	9	-1.11	5.42	-1.73 to -0.54	-0.69	0.253
Equipment	5	1.16	6.28	-0.10–2.58	0.09	0.464
None	4	0.85	2.03	0.28–1.38		

<sup>+</sup> Statistically significant at  $\alpha = 0.05$ .

Table 7 shows the impact of the specific types of interventions on the five workplace and trunk kinematic variables used in the risk analysis, as well as on the resulting LBD risk. Here, positive mean differences indicate that workplace and trunk kinematic variables were reduced following the interventions. Among the interventions studied, lift tables had the greatest impact on maximum sagittal flexion of the torso, significantly reducing the mean by nearly 30°. Lift tables also significantly reduced mean maximum lateral velocity (by nearly 16° s<sup>-1</sup>). Lift aids reduced the mean external moment generated about L<sub>5</sub>/S<sub>1</sub> (by well over 100 Nm) more than any other intervention studied. These devices, on average, resulted in a significant reduction in the computed LBD risk by nearly 35%. All of these mean differences were significantly greater than those observed in the comparison group over the observation period. Also indicated in table 7 was the fact that introducing new equipment as an intervention significantly reduced only maximum lateral trunk velocity. However, this reduction was of a large magnitude. Finally, the nine work area redesign interventions implemented by companies produced no statistically significant differences from the comparison group.

Differences in employee job satisfaction as a function of the interventions also are presented in table 7. Across all 32 jobs in which interventions were made, mean job satisfaction significantly increased (noted by the negative values). Of interest was the fact that the mean job satisfaction score for the comparison group decreased. However, none of the specific job interventions produced a significant change in reported job satisfaction, although the effect of lift aids approached significance ( $p = 0.051$ ).

#### 4. Discussion

Two significant goals were achieved here. First, using a prospective study design, the predictive value or validation of the LBD risk model, in terms of its association with low-back incidence rates, was established. Second, through this same experimental design, it was demonstrated that ergonomic job interventions could have a significant impact on reducing LBD in manual materials handling jobs. Each of these issues is discussed below.

##### 4.1. Validation of the LBD risk model

This study has presented compelling evidence that LBD risk measure can reliably and quantitatively predict the effect that a job alteration will have on the low-back injuries rates of those exposed to the work. The univariate correlation between

Table 7. Unweighted trunk kinematic data, LBD risk, and job satisfaction values, grouped according to the type of job intervention. Mean differences indicate the values for these variables, with a positive value indicating a reduction following the intervention.

Type of Intervention	N	Max. external moment (Nm)				Life rate (lifts/h)			
		Mean diff.	SD	t	p	Mean diff.	SD	t	p
All interventions	32	38.94	75.69	0.29	0.772	33.58	135.59	0.93	0.358
Lift table	8	35.43	34.86	0.34	0.774	-3.69	70.39	0.69	0.509
Lift aid	10	112.40	45.23	3.17	0.008 <sup>+</sup>	10.75	102.51	0.76	0.460
Redesign	9	-23.37	83.06	1.14	0.280	38.37	131.22	1.00	0.337
Equipment	5	9.79	22.65	0.78	0.463	130.22	244.79	1.28	0.242
None	4	27.58	45.17			-30.74	47.81		

Type of Intervention	N	Max. sagittal flexion (°)				Max. lateral velocity (°/s)			
		Mean diff.	SD	t	p	Mean diff.	SD	t	p
All interventions	32	17.00	18.59	1.42	0.164	12.20	22.92	1.62	0.114
Lift table	8	29.78	11.32	4.20	0.002 <sup>+</sup>	15.81	16.95	2.47	0.033 <sup>+</sup>
Lift aid	10	16.47	16.42	1.50	0.161	20.25	33.91	1.54	0.150
Redesign	9	5.65	19.20	0.21	0.836	1.23	14.88	0.99	0.344
Equipment	5	18.04	22.18	1.25	0.253	10.06	8.50	2.92	0.022 <sup>+</sup>
None	4	3.52	6.89			-6.79	8.74		

Type of Intervention	N	Avg. twisting velocity (°/s)				LBD risk			
		Mean diff.	SD	t	p	Mean diff.	SD	t	p
All interventions	32	0.56	5.80	0.14	0.886	18.69	19.53	1.68	0.103
Lift table	8	-1.96	2.44	0.66	0.527	17.13	15.10	1.87	0.091
Lift aid	10	0.84	5.11	0.20	0.842	34.40	13.71	4.43	0.000 <sup>+</sup>
Redesign	9	-1.34	7.27	0.31	0.760	2.67	19.52	0.07	0.949
Equipment	5	7.47	2.18	1.88	0.102	18.60	13.13	2.27	0.058
None	4	0.09	8.55			2.00	6.98		

Type of Intervention	N	Job satisfaction (1= low, 10= high)			
		Mean diff.	SD	t	p
All interventions	32	-1.31	2.23	2.10	0.044 <sup>+</sup>
Lift table	8	-1.59	2.61	1.85	0.094
Lift aid	10	-1.23	1.83	2.17	0.051
Redesign	9	-1.04	2.26	1.68	0.122
Equipment	5	-1.47	2.92	1.53	0.170
None	4	1.15	1.92		

<sup>+</sup> Statistically significant at  $\alpha = 0.05$

changes in LBD risk and low-back incidence was moderate but significant. This implies that not all the variability in incidence rate is related to the LBD risk. However, it does explain a significant, and probably the single largest, amount of variability. There are several factors that would be expected to under-represent this relationship and underestimate the correlation coefficient value. First, as stated above, companies differ greatly in their definitions of a recordable low-back injury. This variability in recording between companies would be expected to lower the correlation coefficient presented here, since the relationship between the risk measure

and the recorded LBD incidence would be masked. One would expect that if a common operational definition for recordable LBD was employed across companies, this correlation would improve significantly. Second, the literature is clear in that LBD are truly multifactorial events. Other factors (such as personal variables and psychosocial influences) likely impact the numbers of low-back incidence reported by employees besides those involving the physical workplace. However, these factors were not examined extensively in this study. Third, LBD reporting is most likely related to job demands. Those performing physically demanding tasks would most likely not be able to continue working with a low-back injury and would therefore report the injury. However, those performing less physically demanding jobs may or may not report the injury. Many suspect that social pressures, organizational factors, and individual psychological factors play an important role in determining whether an employee reports the injury under these circumstances. Thus, more variability in reporting under the medium risk jobs would be expected. The data agree with this hypothesis (figure 2).

The validity of the risk model was further enhanced by the presence of a comparison group in this study. Since the comparison jobs did not produce a significant change in LBD incidence over the observation period, it can be concluded that changes in observed risk were due to workplace interventions and not to some external varying factor.

Despite the inherent variability in these data, the LBD incidence rate change that would be expected for a specific job was predicted, given an LBD risk assessment pre- and post-intervention. This was possible using both linear and Poisson regression models. The bivariate model is depicted graphically in figure 4 for several combinations of LBD risk. It shows that the larger the reduction in LBD risk following an intervention, the greater the mean predicted incidence rate drop will be. This is true, regardless of the initial LBD risk value (i.e. the job's risk pre-intervention). It should be noted that the magnitude of an intervention effect results in different incidence rate reductions, depending on the job's initial LBD risk level. For example, a job having an LBD risk of 90% that is reduced to 70% following the intervention could expect to produce a drop of just under four LBD per 100 full-time employees. This is still considered a 'high-risk' job (figure 2). However, a job having a moderately low LBD risk of 30% reduced by the same magnitude, to 10%, could theoretically expect to have a drop of well over five injuries per 100 full-time employees.

This bivariate linear regression also can accommodate situations where interventions can make jobs *more* likely to produce low-back injuries. This is indicated by a negative incidence rate change. For example, a job initially having a high LBD risk of 70% that, when changed to produce a higher 90%, could expect to observe two more LBD per 100 full-time employees per year than before the intervention. In contrast, a job change with a relatively low initial LBD risk of 30% that results in an increase to 50% following some job modification would only expect to see < 1.25 more injuries during the same amount of time.

The Poisson regression model developed from these results generates different information from the linear regression model (figure 5). This model predicts LBD *incidence*, given the incidence rate before an intervention and the estimated change in risk via the LBD risk model. The Poisson model predicted that the larger the reduction in LBD risk due to an intervention, the greater the drop will be in predicted incidence number. This change is moderated, obviously, by the baseline

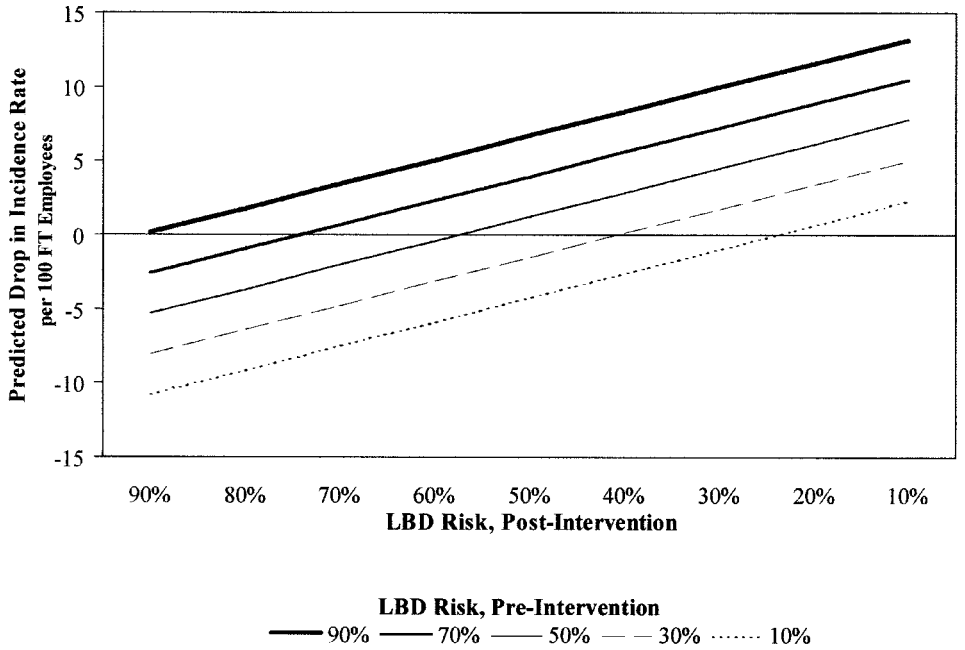


Figure 4. Representation of the bivariate linear regression model presented in table 4.

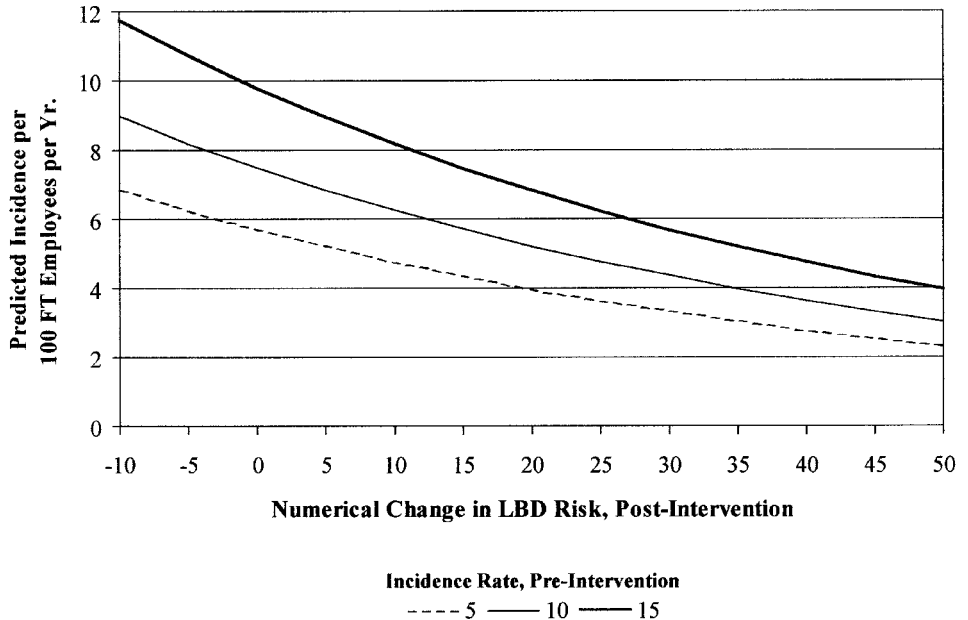


Figure 5. Graphical representation of the Poisson regression model presented in table 5. Positive post-intervention LBD risk indicate that LBD risk was reduced; negative values indicate the LBD risk assessment increased following the intervention.

incidence rate of the job. Figure 5 also shows the potential improvement gained by a job change that produces larger decreases in LBD risk from its pre-intervention value. For example, the same number of incidences (four per 100 full-time employees per year) is predicted by this model for three very different situations: (1) a job with initial incidence of five whose LBD risk is reduced by 20%; (2) a job with an initial incidence of 10 whose intervention reduces LBD risk to 35% below its previous assessment; and (3) a job with 15 low-back incidences per 100 employees whose intervention cuts its LBD risk by 50%. Thus, the risk relationship is non-linear. Finally, figure 5 shows that, for jobs with a zero change in LBD risk due to a workplace change, the model slightly overestimates its prediction for jobs having lower incidence and underestimates it for jobs with higher incidence. This suggests interventions having no risk value change could affect incidences differently, depending upon the pre-intervention incidence rate.

The primary benefit of these prediction models is that much more immediate feedback can be provided about job risk expectations following an ergonomic change. This risk assessment can address the issue of 'how much exposure is too much exposure to the risk factors'. By assessing a job change using the LBD risk model soon after the change is made, the employer can determine if the anticipated average drop in LBD is acceptable, if more should be done to improve further the operation, or if the job has actually been made worse. This may be a preferable approach compared with waiting several months or years to see if incidence rates actually change or drop to acceptable levels. This is particularly important for jobs traditionally having high incidence rates or for those jobs that employ large numbers of individuals, since their associated injury costs traditionally have more of an impact on the company.

#### 4.2. *Impact of ergonomic interventions*

This study has demonstrated that a positive impact was observed for a number of interventions considered to be ergonomic in nature. However, these results also illustrated that not every type of intervention was successful in reducing a job's incidence rate. In this study, only lift tables (meant to bring loads upwards and closer to employees for handling) and lift aids (which sustain the weight of the load itself) were found individually to reduce LBD to a significant degree. Reported incidence rate reductions were significantly larger than the comparison group for lift tables and lift aids, with mean reductions of 7.42 and 6.18 LBD per 100 full-time employees per year respectively.

In the jobs examined here, redesign and equipment interventions did not reduce rates significantly differently from the comparison group. The impact of installing new equipment into work areas was slight, with an average drop of slightly more than one injury per 100 full-time employees yearly. The work area redesign interventions for the nine jobs tracked proved to actually *increase* the mean LBD incidence rate in the jobs observed.

This lack of effectiveness would have been predicted using the LBD risk model. Redesign of the nine jobs had no bearing on any of the measures of incidence rates, workplace or trunk kinematic variables, or employee satisfaction. Most of these jobs involved engineering changes (e.g. a change in the production process, a move to a supposedly 'improved' facility where the same job was performed within a new environment) that the company believed at the time would reduce the numbers of LBD. For the five jobs that involved the installation of new equipment, only mean

maximum lateral velocity was significantly lower than for the comparison group. However, here again, the LBD risk model would have suggested that these interventions would not produce significant changes in risk.

These results do not imply that redesign and equipment interventions are ineffective. Indeed, table 2 reveals that a few of the redesign and equipment interventions did produce the desired results. This indicates that workplace redesigns and equipment interventions are probably capable of successfully reducing incidence rates, *if* ergonomics concepts are applied appropriately. However, this study demonstrated the possible lack of reduction in a job's incidence rate if companies do not consider ergonomics principles or do not correctly apply them in making job changes.

It should be emphasized that the interventions observed here were designed by the companies and not necessarily by professional ergonomists. Often persons with little or no ergonomic training were responsible for these designs. This situation serves to emphasize the need for quantification of workplace injury risk as well as quantification of the effects of potential job redesigns. The LBD risk model can fill this need.

The positive impact (in terms of injury reduction) of some job interventions observed here is also consistent with the biomechanical literature. Lift tables reduced the mean sagittal flexion and lateral trunk velocity values of jobs in which they were implemented. Reducing the extent of these awkward positions agrees with Punnett *et al.*'s (1991) findings, which showed that the time spent in non-neutral postures was strongly associated with LBD. The benefit of installing lift aids was drastically to lower the external moment generated about the lumbosacral joint. This outcome supports Burdorf and Zondervan's (1990) research, in which a significant relationship between heavy work and low-back pain was found in crane operators. Also, Videman *et al.*'s (1990) cadaver study found that those who performed heavy physical work had an increased risk of lumbar disc disease compared with those having mixed exposures to physical work.

The interventions themselves appeared to have an effect on what could be considered a psychosocial component of the jobs, too. The average job satisfaction score reported by employees (table 7), as contrasted with the comparison group, increased significantly following the intervention. This may be due to several influences. The physical requirements of the jobs themselves were reduced in many instances, and this may have translated to an improved view of the jobs' working conditions. A similar finding was reported by Marras *et al.* (1993), in that employees doing 'low-risk' jobs reported significantly higher levels of job satisfaction than did their counterparts performing 'high-risk' MMH activities. Even though most of the jobs in this study were monitored many months or years following the intervention, a type of 'Hawthorne Effect' may still have been present, in which a perceived change in the workplace was accompanied by a significant and positive change in employees' satisfaction with their work.

One potential concern in this study may be the difference in exposure data pre-versus post-intervention. This occurred primarily due to the changing nature of work in recent years. For example, only low-back injuries reported within the time frame in which a significant change was made to the jobs were used in the incidence rate computations. With today's increasingly competitive global economy, significant job modifications, ergonomic or otherwise, occur more frequently. In addition, modifications in manufacturing processes due to product changeovers also confined

the period in which injury data could be tabulated. These factors limited the observation time for several jobs. However, adjustments in the data were made by weighting incidence rates based on the amount of exposure data that were available. Thus, from a statistical perspective this should not create a problem.

Another concern might be the number of jobs observed in this study and differences between employees pre- and post-intervention. While epidemiological studies often collect hundreds, if not thousands, of data points, this study was very different in that quantitative monitoring of employees was performed, which made collecting this size of data set impractical. However, a large number of employees (142) was observed, representing exposure time of nearly 4500 person-years. Thus, the impact of such concerns would be minimal in the statistical analysis. Finally, though the mean age and job experience of employees in the post-intervention group was statistically higher than in the pre-intervention sample, it was believed the difference (~1.5 years of experience and 4 years in age; table 1) had no practical relevance. This was confirmed when these variables were added to the regression models and added little to the explained variation.

### 5. Conclusions

Using a prospective design, this research has validated the use of an ergonomics assessment tool, the LBD risk model, and shown that it was capable of predicting changes in LBD incidence rates due to workplace interventions. The results presented have demonstrated a clear association between a job's risk level, assessed using the LMM both pre- and post-intervention, and the change in the expected numbers of low-back injuries. In addition, the study has shown the effectiveness of incorporating ergonomics into industrial operations. Specifically, it has demonstrated that certain ergonomic interventions, such as lift tables and lift aids, can significantly reduce the LBD rates of repetitive MMH jobs. This study also has shown that not all job changes, though initially believed to incorporate ergonomics principles, were effective in reducing injuries. Thus, for ergonomic interventions to be effective, they must be done correctly.

These findings are important to the field of ergonomics. It has been demonstrated conclusively that a significant link exists between a job's risk level and its low-back incidence rate. These results apply to a wide range of manual materials handling activities found in industries today, in which employees are required to handle a variety of objects repetitively in a manufacturing setting. Finally, this study has shown that ergonomic interventions, when applied according to known biomechanical principles, can be effective in reducing low-back injuries to employees.

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## **Charge to Best Practices Working Group**

OSHA currently devotes significant resources to investigating allegations of retaliation. These efforts are of great importance to the individual who has been the target of retaliation as well as other workers and the quality of the workplace environment. It does not, however, seem likely that the publicity around OSHA's findings in these individual cases is having a significant deterrent effect by preventing instances of retaliation in the future. Historically, OSHA's message to employers has been a simple one: it is against the law to retaliate against a worker for performing protected activity.

The agency is now at a point where we need to adopt strategies that will better discourage employers from retaliating against employees who engage in protected activities. Protected activities adopted by the Congress involve the protection of workers, school children, consumers, the environment, our national economy and the well-being of all Americans. One potentially fruitful strategy would involve expanding our message: not only to tell employers that retaliation is against the law, but that there are structures, policies, and programs that an employer can adopt that will protect whistleblowers and thereby ensure that the employer is following the law.

I would like this Working Group to identify, investigate and evaluate the programs, policies and practices (called programs for the sake of brevity) currently in use in private and public enterprises, whether in the United States or overseas, that best ensure the prevention and cultural discouragement of retaliation against whistleblowers. In doing so, the Group should examine evaluations of these programs and, as needed, develop evaluation questions and tools to determine which programs are effective and why they are effective. In other words, I would like the Group to identify the elements of best practices. What is a "best practice" has yet to be agreed on and is the subject of various opinions and perspectives that may relate to the particular industry and culture. The Working Group may consider hosting representatives of enterprises (both management and labor) and providing a summary and analysis of existing programs to OSHA and what makes those programs effective.. In evaluating such programs, it is crucial to hear from employers, human resource experts, labor representatives, individual employees, and whistleblowers

OSHA would like the WPAC's advice on the effectiveness and impact of these programs; any gaps that are identified in the effectiveness of existing programs; and the best methods for dissemination of information regarding identified best practices

### **Charge to the 11(c) Working Group**

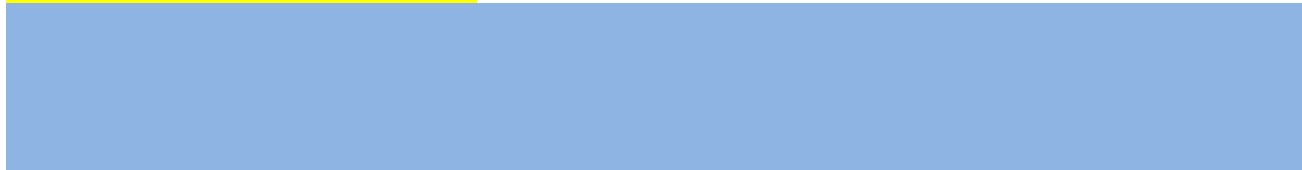
The focus of the Working Group's activities should be on the effectiveness of OSHA's current 11(c) program, legislation and regulations in protecting employees who raise safety and health concerns. OSHA would like the Group (1) to provide strategic advice regarding enforcement policies and practices; and (2) to provide an analysis of any shortcomings in the current statute that need to be addressed in order to provide effective protection to employees. In undertaking this analysis, the Working Group should look at other whistleblower legislation, including both laws enforced by OSHA and others not enforced by OSHA but which are also designed to protect employees from retaliation (e.g. FLSA, MSHA, Title VII and state statutes).

### **Charge to the Transportation Working Group**

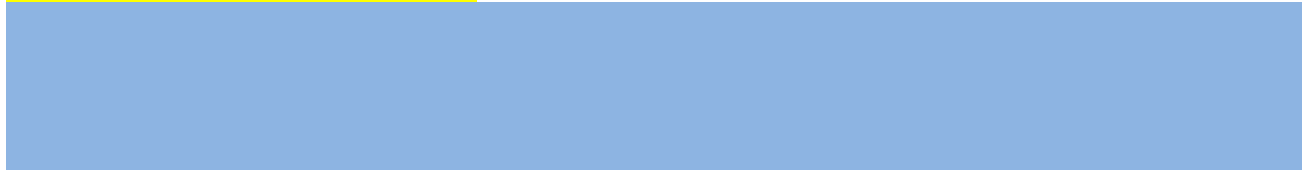
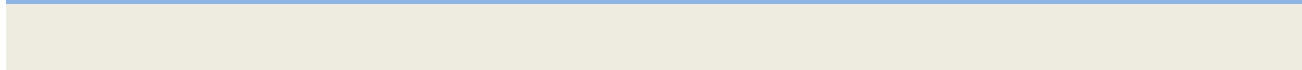
The focus of the Working Group's activities should be on current practices in particular sectors of the industry and the effectiveness of existing legislation in addressing practices that threaten the ability of employees to raise concerns about safety and health. In looking at these issues, the Working Group should consider the effects and successes of the existing laws, gaps in both legislation and employer practices, employer practices that raise particular concerns, and the effectiveness of current legislation and enforcement in addressing these gaps. OSHA would like advice on where and how to most effectively and productively focus its enforcement and outreach to achieve the greatest impact given its current resources.

<b>Last Name</b>	<b>First Name</b>	<b>Title</b>	<b>Org</b>
Seminario	Peg	Director Safety and Health	AFL-CIO
Kajola	Bill		AFL-CIO
Frumin	Eric		Change to Win
Nowell	Jackie	Safety & Health Director	UFCW
Robbins	Robyn	Asst. Director	UFCW
Schneider	Scot		LiUNA
Jones	Walter		LiUNA
Dinker	Chris		Flight Attendants
Stafford	Pete		CPWR
Trahan	Chris		CPWR
Caitlan	Mark		SEIU
			UAW
			IBT
			AFSCME
			AFSCME
Howard	Dr. John	Director	National Institute for Occupational Safety and Health (NIOSH)
Benajmin	Georges C.	Executive Director	American Public Health Association (APHA)
O'Neil	Peter J.	Executive Director	American Industrial Hygiene Association (AIHA)
Trippler	Aaron	Director of Government Aff:	American Industrial Hygiene Association (AIHA)
Torres	Gustavo	Executive Director	CASA de Maryland
Goldstein	Bruce	President	Farmworker Justice
<b>Thorton</b>	<b>Jim</b>		
<b>Bakers</b>		<b>Active on Dust</b>	
<b>Colleagues from EO on Chemical Facility Safety and Security</b>			
Durkovich	Caitlin	Assistant Secretary, Office of Infrastructure Protection	U.S. Department of Homeland Security
			Environmental Protection Agency (EPA)
			DOJ ATF

Email	Phone	Street Address	City	State
eric.frumin@changetowin.org	(917) 209-3002	110 William Street, Suite 1201	New York	NY



	(202) 245-0652	395 E Street, SW	Washington	DC
	301-431-4185 (202) 293-5420	1126 16th St NW # 270	Washington	DC



**ZIP**      **DOL Agency**  
              **OSHA**

10038 OSHA



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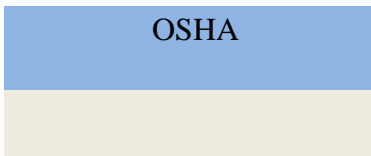
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OSHA

20036



OSHA



**From:** [Barab, Jordan - OSHA](#)  
**To:** [Galassi, Thomas - OSHA](#)  
**Cc:** [Kapust, Patrick - OSHA](#); [Berkowitz, Deborah - OSHA](#)  
**Subject:** Fw: body armor as PPE  
**Date:** Wednesday, May 01, 2013 11:40:18 AM

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Anything?

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Jordan Barab  
Deputy Assistant Secretary of Labor  
Occupational Safety and Health Administration  
(202) 693-2000

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**From:** Diane Stein <dstein@local237.org>  
**To:** Barab, Jordan - OSHA  
**Sent:** Wed May 01 11:39:49 2013  
**Subject:** body armor as PPE

Hi Jordan,

My local represents peace officers for a variety of agencies. Some of those agencies are not providing bullet-resistant vests. Does OSHA have any interpretation letters or other supporting documentation that would make it clear that body armor is PPE?

Thanks.

Best regards,

Diane

Diane Stein  
Safety and Health Coordinator  
Local 237, IBT  
216 West 14th Street  
New York, NY 10011  
212 924-2000 ext 7515 V  
646 638-8714 Fax  
[dstein@local237.org](mailto:dstein@local237.org)  
[www.local237.org](http://www.local237.org)

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**From:** [Barab, Jordan - OSHA](#)  
**To:** [Edens, Mandy - OSHA](#); [Matthews, Denise - OSHA](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#); [Fairfax, Richard - OSHA](#)  
**Subject:** Fw: Letter to Governor Christie Concerning Safety and Health & Sandy Recovery/Rebuilding Effort  
**Date:** Monday, January 07, 2013 7:57:09 AM  
**Attachments:** [Sandy Gov Christie Letter Final Submitted.doc](#)

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Jordan Barab  
Deputy Assistant Secretary of Labor  
Occupational Safety and Health Administration  
(202) 693-2000

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**From:** Rick Engler <rengler@njwec.org>  
**To:** Marc-Philip Ferzan <Karen.Berdomas@gov.state.nj.us>; Kevin O'Dowd <kevin.o'dowd@gov.state.nj.us>; Mary O'Dowd <mary.o'dowd@doh.gov.state.nj.us>; Harold J. Wirths <janet.sliwinski@dol.state.nj.us>; Bob Martin <commissioner@dep.state.nj.us>; Kulick, Robert - OSHA; Judith Enck <Enck.Judith@epa.gov>  
**Cc:** Eldridge, Joe; Black, Howard <Howard.Black@dol.state.nj.us>; Magdalena Padilla <Magdalena.padilla@dep.state.nj.us>; Kenny, Laura - OSHA; Lisa Plevin <Plevin.Lisa@epamail.epa.gov>; Chip Hughes <hughes3@niehs.nih.gov>; Michaels, David - OSHA; Barab, Jordan - OSHA  
**Sent:** Sun Jan 06 13:16:51 2013  
**Subject:** Letter to Governor Christie Concerning Safety and Health & Sandy Recovery/Rebuilding Effort

Dear Governor Christie:

A copy of the attached letter from 48 labor, environmental, and public interest organizations and professionals with recommendations for ensuring safety and health during the Sandy recovery and rebuilding effort is attached. This letter was also delivered to your office on January 4, 2013. Also, below, please also find a copy of the Work Environment Council's opinion piece that appeared in the January 5, 2013 *Star Ledger of Newark*.

Thank you for your consideration of these proposals and we look forward to your followup on this urgent matter.

Sincerely,

Rick Engler for the 48 signing organizations and individuals.

*Newark Star Ledger*  
Jan. 5, 2013

## **Preventing a second Sandy disaster**

**By John Pajak**

In the wake of Hurricane Sandy, Gov. Christie and all New Jersey residents can learn from previous disasters to prevent further damage to our lives, health and safety.

After the Sept. 11, 2001, attacks on the World Trade Center, failure to provide cleanup and recovery workers and volunteers with health and safety protection and training caused widespread, preventable disease and death. By contrast, after the BP oil spill in the Gulf of Mexico, many effective measures were taken to protect workers. We must learn from these experiences and take the necessary steps to protect those who are responding to Hurricane Sandy.

At least 15 workers and volunteers died in New Jersey and New York during just the initial response to the storm, according to preliminary investigations by the federal Occupational Safety and Health Administration. The storm created extensive threats to recovery workers and volunteers, other residents and the environment, including chemical spills, water contamination from sewage and toxic substances, asbestos-contaminated debris, unsafe buildings and electrocution. Increased growth of health-threatening mold from dampness also is a serious problem.

Gov. Chris Christie can help make sure that municipalities do this cleanup safely and that opportunistic companies don't put workers and communities in danger by cutting corners to make an extra buck.

Christie can push employers to ensure structures are properly supported before recovery workers are asked to work in them. Potential gas leaks and electrical hazards must be identified and corrected. When workers face asbestos, silica or other hazardous materials in debris, they must be provided with correct respirators, proper instructions and anything else needed to take precautions.

While OSHA has a mandate to require employers to protect worker safety and health, there are at least five steps Christie could take now to protect us all.

He could tie state funding to health and safety protections. For example, he could require that construction firms and other businesses that receive Recovery4Jersey funds for training recovery workers provide safety and health training and employer-paid protective equipment before work begins.

He could blanket the airwaves and internet with information in English, Spanish and other languages about safe ways to conduct recovery efforts and legal protection for whistle-blowers who report unsafe conditions.

The governor could dramatically increase the amount of training available by asking the Federal Emergency Management Agency for help from a network of university, community college, labor and nonprofit organizations that already provide training funded by the National Institute of Environmental Health Sciences.

NIEHS and its network in the Gulf provided training to 35,000 responders after Hurricane Katrina and 147,000 responders after the BP oil spill. In New Jersey and New York, the NIEHS network has trained more than 155,000 workers during the past five years on disaster response; lead, asbestos and mold remediation; and other topics.

Christie could improve coordination by establishing a health and safety task force engaging state and federal agencies, employers, labor unions, worker centers, volunteer organizations and the hardest-hit communities, and by asking FEMA to help increase coordination.

Finally, Christie should withdraw his administration's recent rule allowing the Department of Environmental Protection to waive the very environmental and worker safeguards it is charged with enforcing. The hazards we face during this recovery show why we need stronger protections, not weaker ones.

It's too late to prevent the unprecedented damage from Hurricane Sandy. However, if Christie acts now, it is not too late to prevent a second disaster caused by health and safety hazards during the cleanup.

*John Pajak is president of the N.J. Work Environment Council.*

--

**Rick Engler, Director**

**New Jersey Work Environment Council**

**On the web at [www.njwec.org](http://www.njwec.org)**

**142 West State St. - Third Floor**

**Trenton, NJ 08608**

**Telephone: [\(201\) 389-3189](tel:201-389-3189) (with forward to cell when I am not at this number)**

**From:** [Kulick, Robert - OSHA](#)  
**To:** [Slavet, Beth - OSHA OWPP](#); [Seeman, Laura - OSHA](#)  
**Cc:** [Schreck, John - OSHA](#); [Wigger, Teri - OSHA](#); [Mendelson, Richard - OSHA](#); [Michaels, David - OSHA](#); [Barab, Jordan - OSHA](#); [Baxter, Greg - OSHA](#); [Berkowitz, Deborah - OSHA](#)  
**Subject:** FW: OSHA 11(c) Complaint by (b) (6)  
**Date:** Wednesday, May 08, 2013 3:10:46 PM  
**Attachments:** (b) (6) [11c Letter to OSHA Submitted.pdf](#)

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(b) (6)  
[Redacted]

**From:** Rick Engler [mailto:rengler@njwec.org]  
**Sent:** Tuesday, May 07, 2013 10:10 AM  
**To:** Kulick, Robert - OSHA  
**Cc:** Michaels, David - OSHA; Barab, Jordan - OSHA; Beth.Slavet@dol.gov; Jones, Patricia - OSHA; Kenny, Laura - OSHA; Fred Potter; Lamont Byrd; Leo Gerard; Gary Beevers; Kim Nibarger; John Shinn; Michael Wright; Frumin, Eric; pseminar@aficio.org; Tom O'Connor; Dave Foster; Brendan\_Bell@lautenberg.senate.gov; Connolly, Hal (Menendez); Laverne Alexander; vincent.sarubbi@mail.house; sarah.jones@mail.house.gov; Chris Gaston; Doc Doherty; John Pajak; David Tykulsker  
**Subject:** OSHA 11(c) Complaint by (b) (6)  
[Redacted]

To: Robert Kulick, Regional Administrator, Occupational Safety and Health Administration, Region 2

Dear Mr. Kulick:

Please see the attached WEC correspondence concerning the OSHA Section 11(c) whistleblower complaint by (b) (6) [Redacted] e have also sent you a copy via US Postal Service.

Thank you for your consideration.

Rick Engler  
Director  
NJ WEC

--

**JOIN US on Friday, June 7, 6:30 PM, for WEC's Annual Awards Reception, Rutgers Labor Education Center, New Brunswick.** Be an event sponsor or place an ad in the on-line ad journal [here](#). Purchase tickets [online](#) or by [mail](#). Help honor: **Noel Christmas**, Utility Workers Union; **Ed Lloyd**, Columbia University; **Adrienne Markowitz**, WEC/NJEA Healthy Schools Program; **Nicky Sheats**, NJ Environmental Justice Alliance; **Intl. Chemical Workers Center for Worker Health & Safety Education & United Steelworkers Tony Mazzocchi Center**, Hurricane Sandy response teams.

*Rick Engler, Director*  
**New Jersey Work Environment Council**  
On the web at [www.njwec.org](http://www.njwec.org)

**142 West State St. - Third Floor**

**Trenton, NJ 08608**

**Telephone: (201) 389-3189 (with forward to cell when I am not at this number)**

**From:** [Ortiz, M. Lucero - OSHA](#)  
**To:** [Michaels, David - OSHA](#); [Barab, Jordan - OSHA](#); [Dougherty, Dorothy - OSHA](#); [Berkowitz, Deborah - OSHA](#)  
**Subject:** FW: Secretary Perez Swearing-In  
**Date:** Monday, August 19, 2013 7:58:07 PM  
**Attachments:** [Copy of Invite List for Sept0413 Swearing In Ceremony.xlsx](#)

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Dear team:

Per our e-mail exchange last week and Joe's e-mail below, the list of OSHA stakeholders/contacts that we've compiled thus far to invite to the Secretary's swearing in ceremony on Wednesday, September 4<sup>th</sup> at 1:30pm is attached.

As you'll notice, I highlighted the places where we're missing information in blue. Please send me the names of folks. Further, let me know if there is anyone else you'd like to include on this list.

I'll work with Debbie to get contact information for most of these folks (e-mail address is the most important at this point). I can get titles and other information tomorrow.

Best,

Lucero

### OSHA stakeholders for September 4<sup>th</sup> swearing in ceremony

Seminario	Peg	Director Safety and Health	AFL-CIO
Kajola	Bill		AFL-CIO
Frumin	Eric		Change to Win
Nowell	Jackie	Safety & Health Director	UFCW
Robbins	Robyn	Asst. Director	UFCW
Schneider	Scot		LiUNA
Jones	Walter		LiUNA
Dinker	Chris		Flight Attendants
Stafford	Pete		CPWR
Trahan	Chris		CPWR
Caitlan	Mark		SEIU
			UAW
			IBT
			AFSCME
			AFSCME
			National Institute for Occupational Safety and Health (NIOSH)
Howard	Dr. John	Director	

Benajmin	Georges C.	Executive Director	American Public Health Association (APHA)
O'Neil	Peter J.	Executive Director	American Industrial Hygiene Association (AIHA)
Trippler	Aaron	Director of Government Affairs	American Industrial Hygiene Association (AIHA)
Pollack	Richard C.	President	American Society of Safety Engineers (ASSE)
Torres	Gustavo	Executive Director	CASA de Maryland
Goldstein	Bruce	President	Farmworker Justice

**Thorton Jim**  
**Bakers Active on Dust**

**Colleagues from EO on Chemical Facility Safety and Security**

Durkovich	Caitlin	Assistant Secretary, Office of Infrastructure Protection	U.S. Department of Homeland Security
			Environmental Protection Agency (EPA)
			DOJ ATF

**From:** McNearney, Joe - OSEC  
**Sent:** Monday, August 19, 2013 6:57 PM  
**To:** Michaels, David - OSHA  
**Cc:** Ortiz, M. Lucero - OSHA  
**Subject:** Secretary Perez Swearing-In

Dear Dr. Michaels,

In preparation for the upcoming swearing-in event for Secretary Perez, there are several items listed below that will impact your agency:

**Key OSHA Stakeholder Invitations**

To ensure we invite your key OSHA contacts, could you please fill out the attached spreadsheet with up to 25 contacts and return to me by COB Tuesday, Aug. 20? The Office of the Secretary will send out invitations for the swearing-in to those on your list asking for an RSVP by Aug. 28. We are also asking your agency to make follow-up calls to the invitation recipients to encourage their

attendance. *Please note that an invitation was sent to you last Tuesday, Aug. 13.*

**Schedule C Appointees**

All agency Schedule C appointees will be asked to volunteer during on September 4, pending availability.

**Other Appointees**

All other appointees in your agency will be invited to the swearing-in.

**Career Lottery**

Due to space constraints, we cannot accommodate the entire career workforce at the swearing-in ceremony. So, similar to the Fourth of July rooftop event, we will hold a lottery for career staff interested in attending.

**Swearing-In Ceremony**

As an agency head, you will be asked to assist in the ceremony by mingling with special guests in the Great Hall prior to the ceremony and during the reception for special guests following the ceremony.

Please let me know if you have any questions.

Thanks!

--Joe

-----  
Joe Henríquez McNearney  
Office of the Secretary  
US Department of Labor  
202.693.6023  
[McNearney.Joe@dol.gov](mailto:McNearney.Joe@dol.gov)



**From:** [Rick Engler](#)  
**To:** [William Vogel](#)  
**Cc:** [Marc-Philip Ferzan](#); [Mary O'Dowd](#); [Michaels, David - OSHA](#); [Barab, Jordan - OSHA](#); [Berkowitz, Deborah - OSHA](#); [Kulick, Robert - OSHA](#); [Kenny, Laura - OSHA](#); [Judith Enck](#); [Lisa Plevin](#); [Chip Hughes](#); [Ted Outwater](#); [Remington, James W.](#); [Deborah Weinstock](#); [Joyce Sagi](#); [John Pajak](#); [Brendan Bell@lautenberg.senate.gov](#); [Scardella, John](#); [jmorawetz@icwuc.org](#); [Claire Galiano](#)  
**Subject:** Fwd: FEMA Refusal to Support Safeguards for Workers, Volunteers, & Homeowners  
**Date:** Monday, February 25, 2013 2:33:41 PM  
**Attachments:** [Sandy Christie Request to FEMA for NIEHS.pdf](#)  
[Sandy Gov Christie Letter Final Submitted.doc](#)

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Dear Mr. Vogel:

This is to confirm that you have chosen not to reply to-date to any NJ Work Environment Council written inquires as to why FEMA has refused to support a NIEHS mission assignment in New Jersey to protect workers, volunteers, and homeowners from post Sandy occupational and environmental safety and health hazards.

As we consider our next steps, I want to ensure that the above statement is accurate.

Sincerely,

Rick Engler  
Director

----- Forwarded message -----

**From:** **Rick Engler** <[rengler@njwec.org](mailto:rengler@njwec.org)>  
**Date:** Tue, Feb 19, 2013 at 10:56 AM  
**Subject:** Fwd: Gov. Christie's Request to FEMA Requesting NIEHS Resources (for Lou Goetting)  
**To:** William Vogel <[William.Vogel@fema.dhs.gov](mailto:William.Vogel@fema.dhs.gov)>

Dear Mr. Vogel:

I am again submitting this request for a clearer explanation of why you have refused to approve the state's request for a NIEHS mission statement and hope that you would be willing to talk to me about this matter.

Thank you,

Rick Engler

----- Forwarded message -----

**From:** **Rick Engler** <[rengler@njwec.org](mailto:rengler@njwec.org)>  
**Date:** Fri, Feb 15, 2013 at 11:08 AM  
**Subject:** Fwd: Gov. Christie's Request to FEMA Requesting NIEHS Resources (for Lou Goetting)  
**To:** [William.Vogel@fema.dhs.gov](mailto:William.Vogel@fema.dhs.gov)

Dear Mr. Vogel:

I was just able to secure your contact information and thus am forwarding you this correspondence to the Governor's Office.

I would be most appreciative of the opportunity to talk with you about this situation, either over the telephone or in person.

Our organization represents 70 labor, environmental, and community organizations.

Thank you for your consideration.

Rick Engler  
Director

----- Forwarded message -----

From: **Rick Engler** <[rengler@njwec.org](mailto:rengler@njwec.org)>

Date: Fri, Feb 15, 2013 at 9:06 AM

Subject: Gov. Christie's Request to FEMA Requesting NIEHS Resources (for Lou Goetting)

To: [nancy.langevin@gov.state.nj.us](mailto:nancy.langevin@gov.state.nj.us)

Cc: Mary O'Dowd <[mary.o'dowd@doh.state.nj.us](mailto:mary.o'dowd@doh.state.nj.us)>, Tina Tan

<[christina.tan@doh.state.nj.us](mailto:christina.tan@doh.state.nj.us)>, Marc-Philip Ferzan <[Karen.Berdomas@gov.state.nj.us](mailto:Karen.Berdomas@gov.state.nj.us)>,

Kevin O'Dowd <[kevin.o'dowd@gov.state.nj.us](mailto:kevin.o'dowd@gov.state.nj.us)>

**To: Lou Goetting, Deputy Chief of Staff and Governor's Authorized Representative to FEMA**

Dear Mr. Goetting:

Thank you for writing FEMA FCO William Vogel on January 30, 2013 (in response to our attached January 4, 2013 letter) on behalf of Governor Christie requesting the assistance of NIEHS concerning safety and health training resources. It is our understanding that FEMA has **not** formally responded to your request to-date.

Could you please tell me if the statement above is accurate and, if so, what specific steps (if any) you are taking to address FEMA's delayed response and apparent lack of action?

Any further FEMA delays are entirely unacceptable and place at risk workers, volunteers, and homeowners from health, safety, and environmental hazards.

Thank you again for your continued assistance in this matter.

Sincerely,

Rick Engler  
Director

--

**Rick Engler, Director**

**New Jersey Work Environment Council**

On the web at [www.njwec.org](http://www.njwec.org)

142 West State St. - Third Floor

Trenton, NJ 08608

Telephone: [\(201\) 389-3189](tel:2013893189) (with forward to cell when I am not at this number)

--

**Rick Engler, Director**

**New Jersey Work Environment Council**

On the web at [www.njwec.org](http://www.njwec.org)

142 West State St. - Third Floor

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**Rick Engler, Director**

**New Jersey Work Environment Council**

On the web at [www.njwec.org](http://www.njwec.org)

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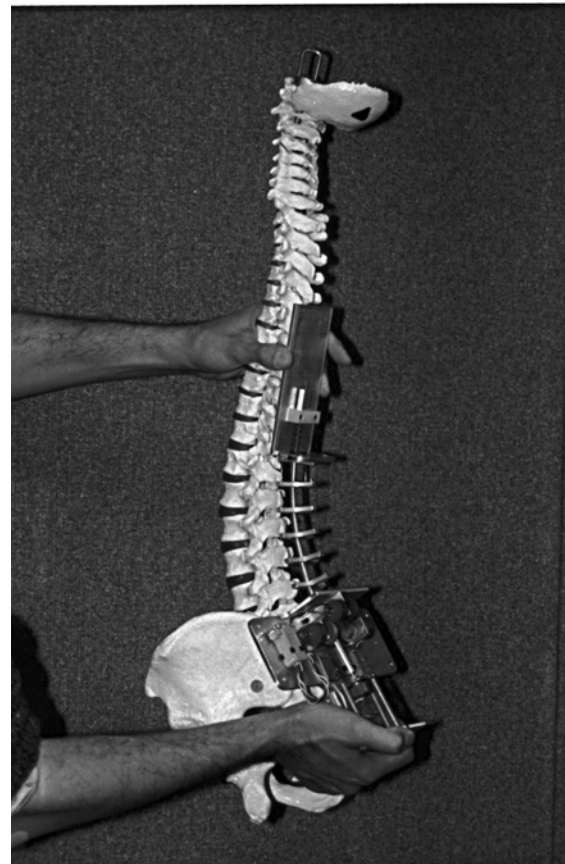
Telephone: [\(201\) 389-3189](tel:2013893189) (with forward to cell when I am not at this number)

# Lumbar Motion Monitor (LMM) Technology

The LMM was developed to  
quantify the dynamic  
component of occupationally  
related low back disorder risk

# Lumbar Motion Monitor

- The LMM is an exoskeleton of the spine
- Measures position, velocity, and acceleration in all three planes of the body





# Approach

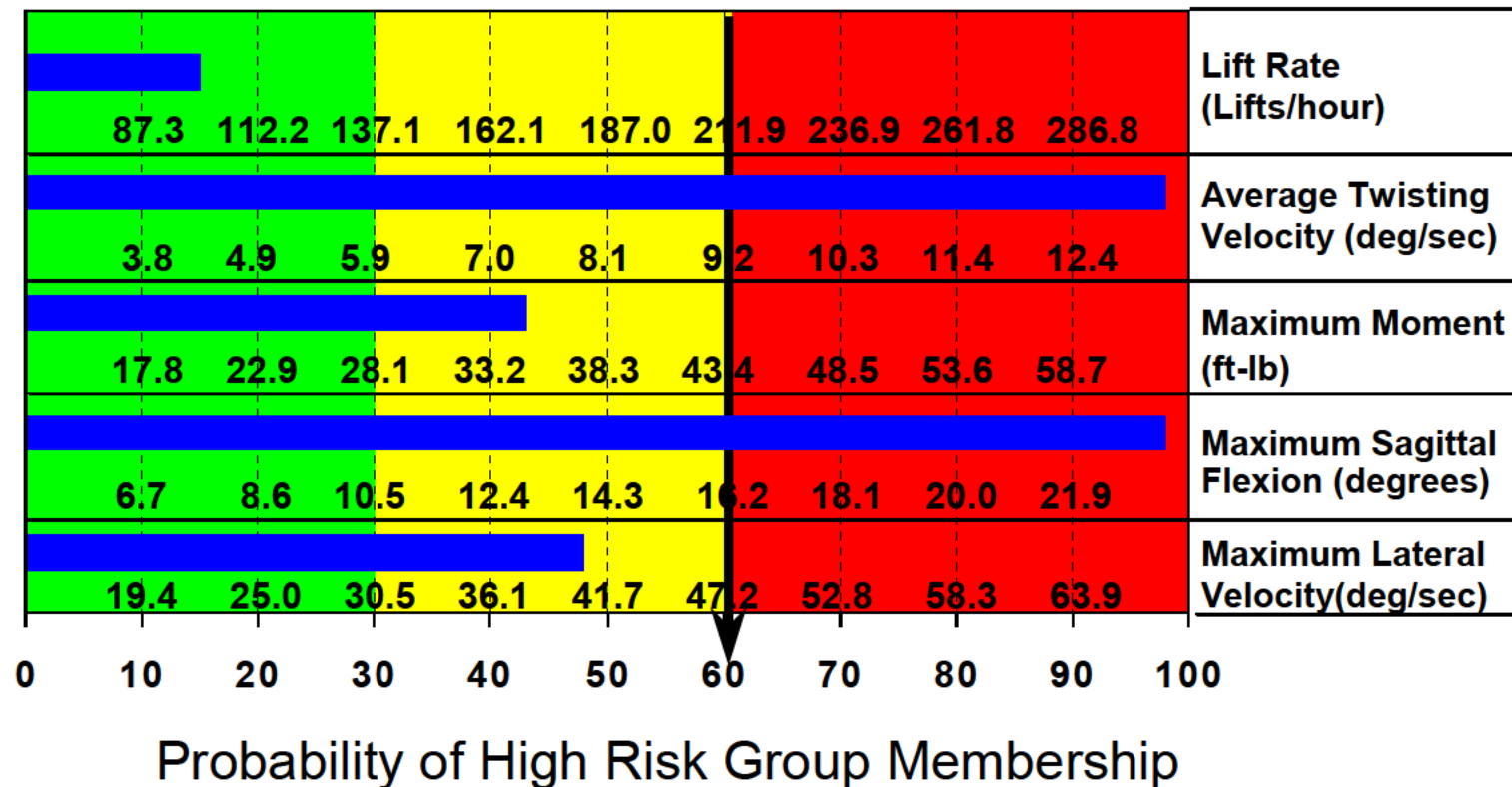
- A large group of workers in jobs with high incidence of low back injuries were evaluated with the LMM
- A second large group of workers in jobs with low incidence of low back injuries were evaluated with the LMM
- The approach was to quantify differences in trunk motion and workplace measures between the two groups of jobs



# Development of LMM Risk Assessment Model

- The goal of the LMM Risk Model was to distinguish between the jobs with high incidence and low incidence of low back injuries
- The best five workplace and trunk motion parameters were selected based on distinguishing between the low and high risk job

# Lumbar Motion Monitor (LMM) Risk Assessment



# What Does the Model Tell Us

- The model indicates the likelihood that a job will be in the high risk group (12 or more incidence of low back injury/200,000 hours of exposures)
- The risk model indicates the probability of high risk group membership
  - High risk (red zone)
  - Medium risk (yellow zone)
  - Low risk (green zone)

# Goals of LMM Risk Model

- Primary goal is to indicate whether or not the job presents a risk of low back injury.
- The secondary goal may be to compare one job to another, to determine which job may cause greater risk of low back injury.
- The third goal may be to determine which specific components or tasks of a job are responsible for the composite probability.

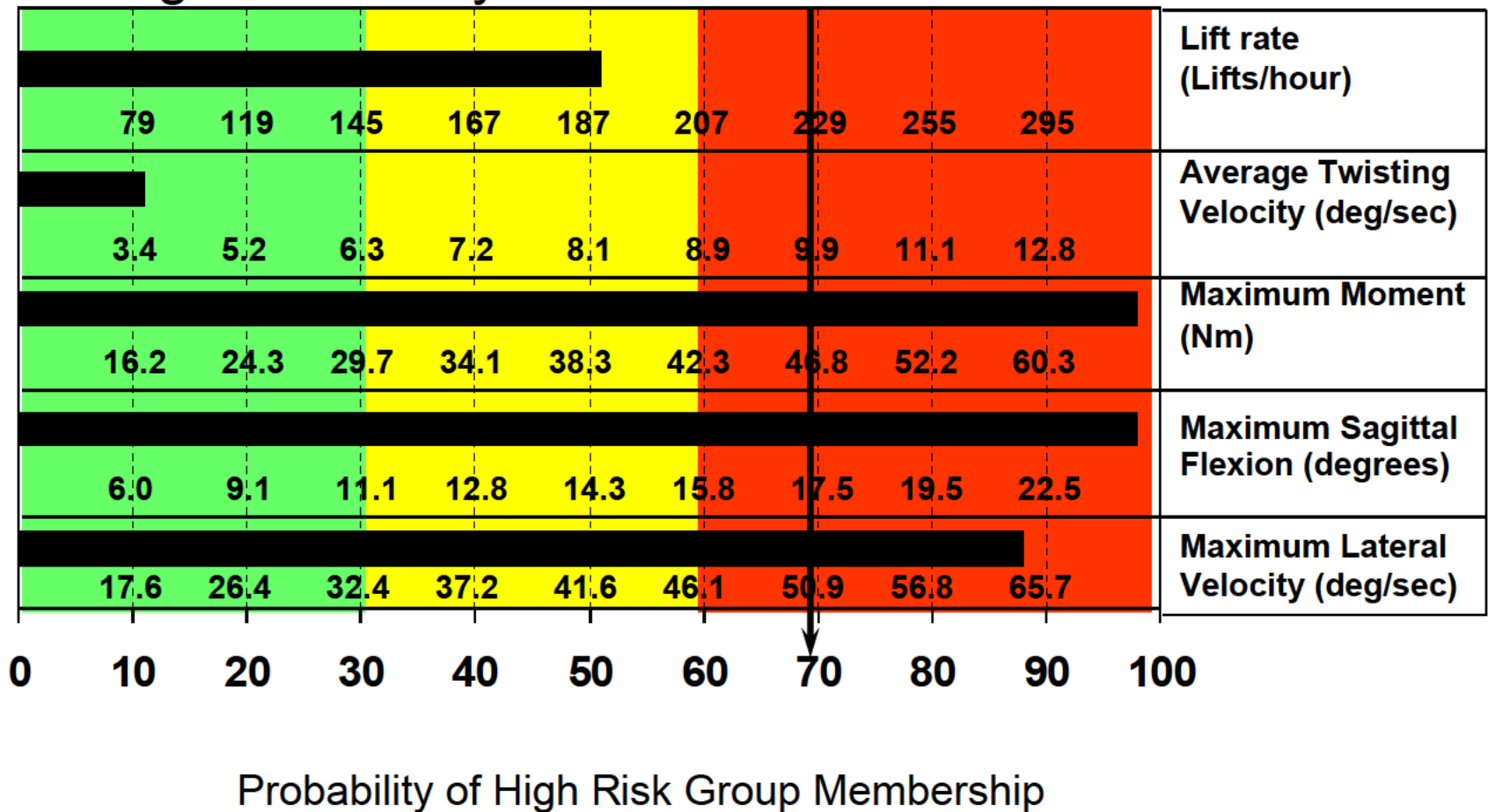
# Application of the Lumbar Motion Monitor Model in Distribution Centers

# Types of Distribution

- Grocery - 3
- Department Store
- Clothing Store
- Household Goods
- Personal Care

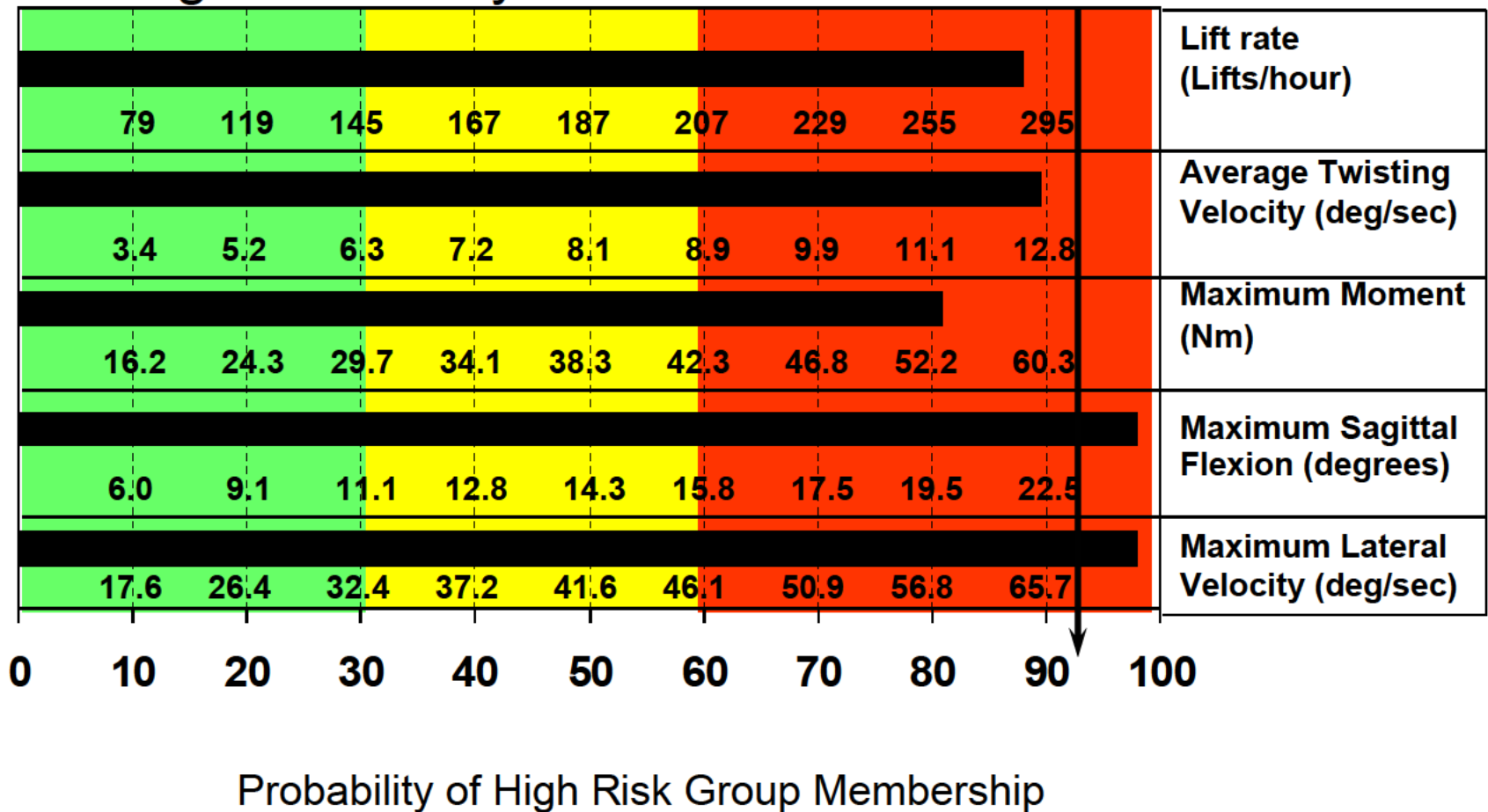
Type of Distribution: Grocery  
 Overall Job Risk: Order Selector  
 (3 workers, 1 task, 72 trials)

Average Probability of Low Back Disorder Risk : 69%



Type of Distribution: Clothing Store  
 Overall Job Risk: Receiving Clerk  
 (2 workers, 1 task, 54 Trials)

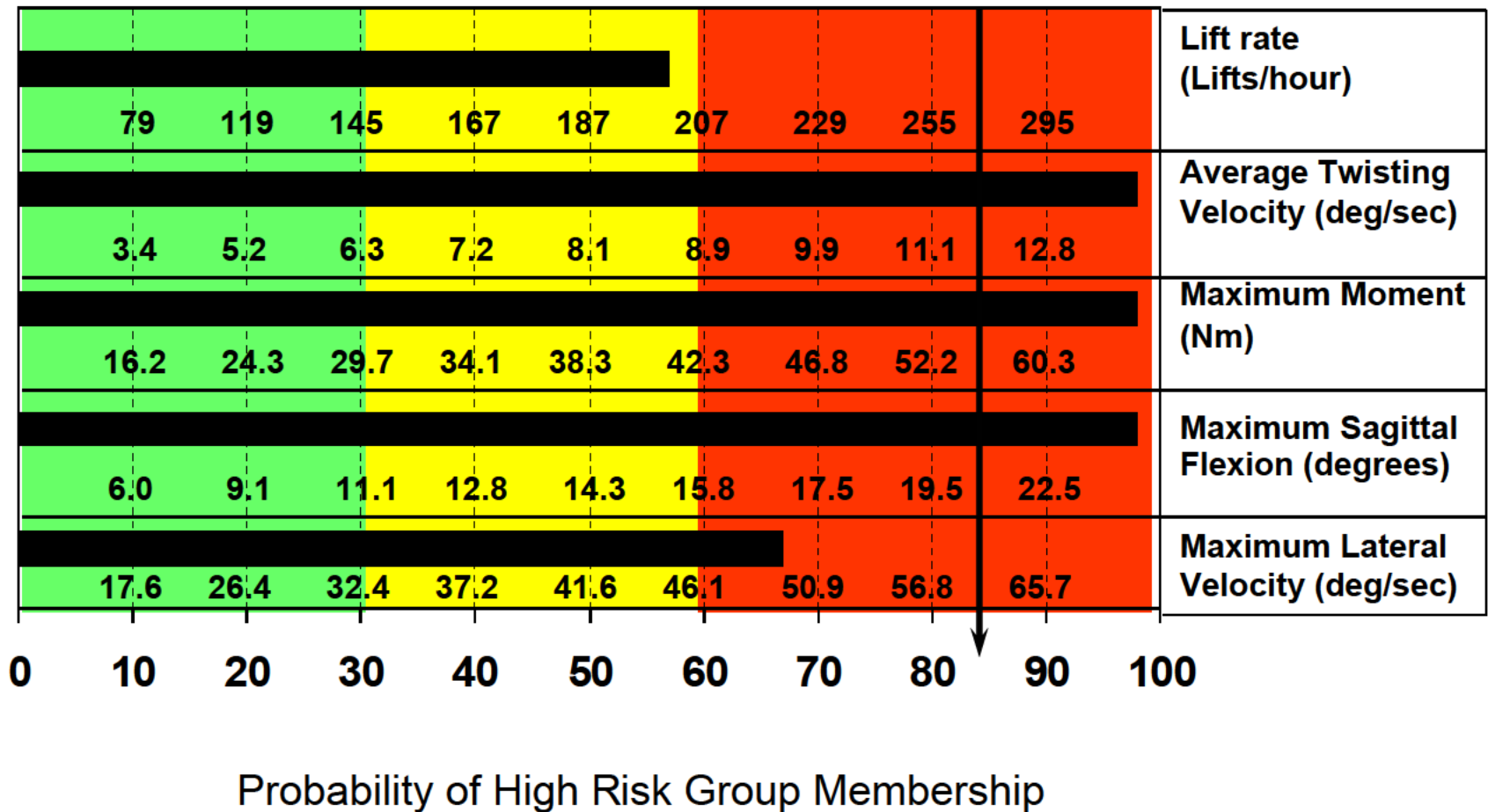
Average Probability of Low Back Disorder Risk : 93%





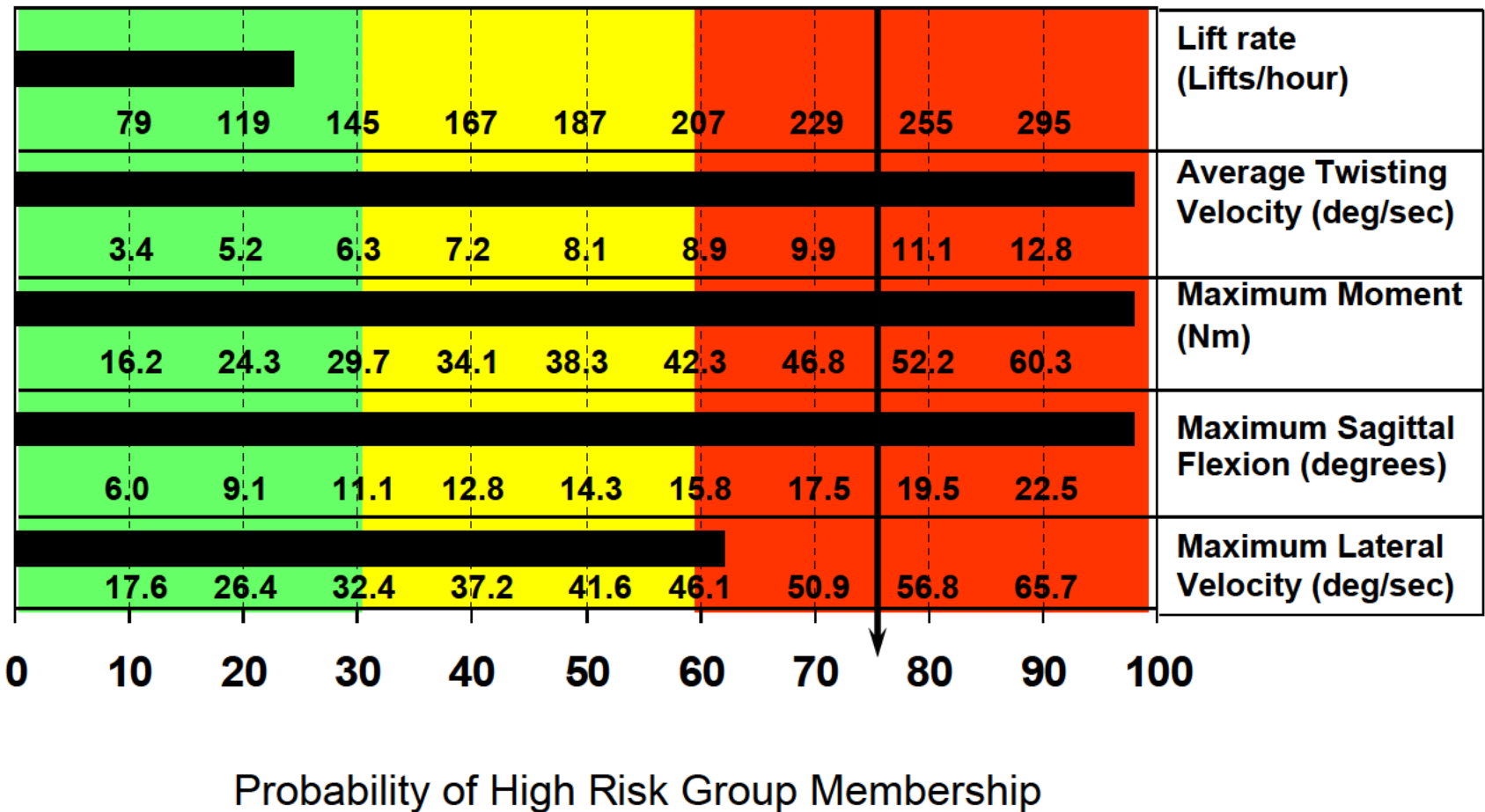
Type of Distribution: Household Goods  
 Overall Job Risk: Stock Service  
 (2 worker, 1 Task, 32 Trials)

Average Probability of Low Back Disorder Risk : 84%



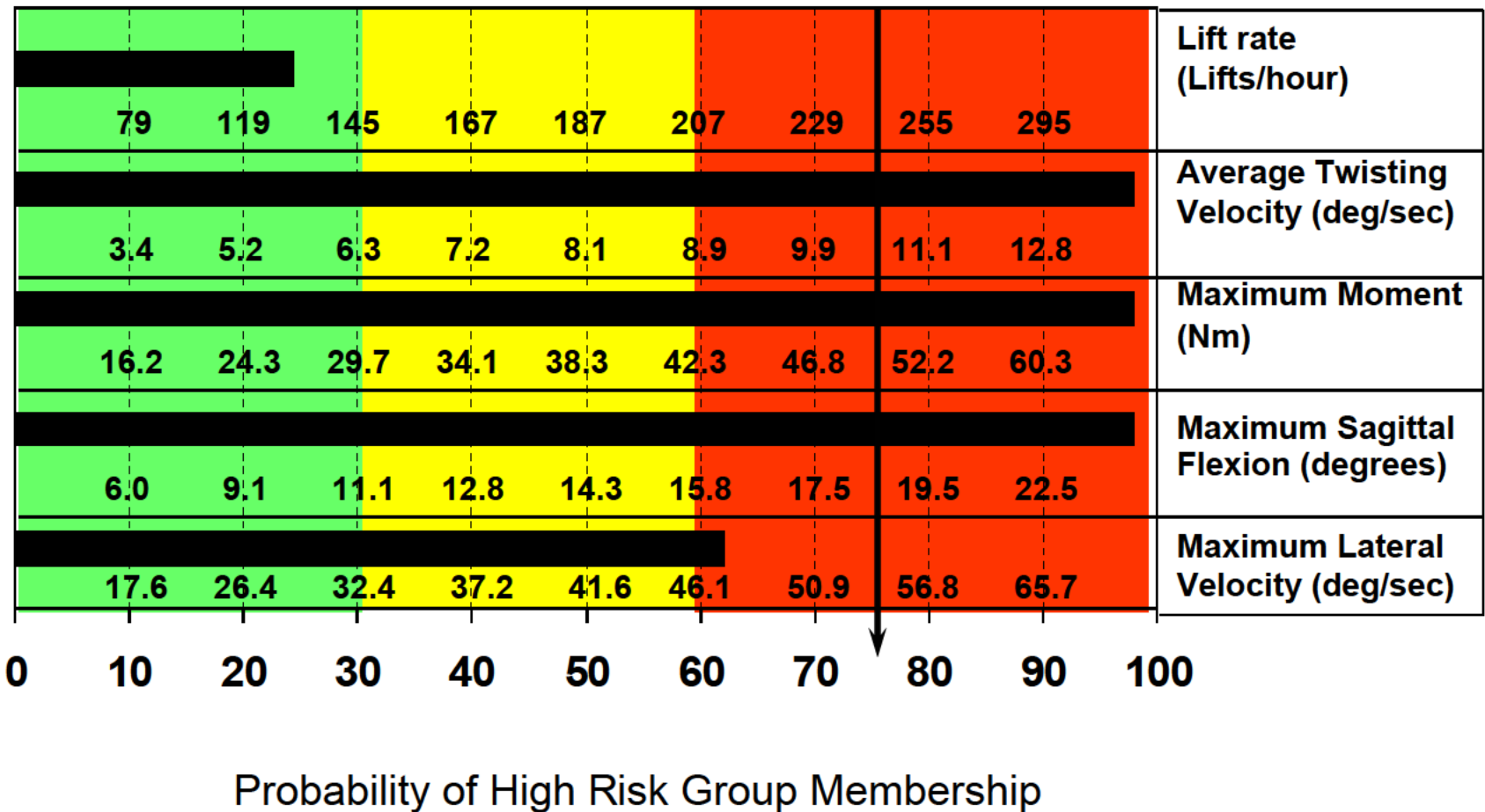
Type of Distribution: Grocery  
 Overall Job Risk: Palletizer  
 (1 worker, 2 tasks, 22 trials)

Average Probability of Low Back Disorder Risk : 76%



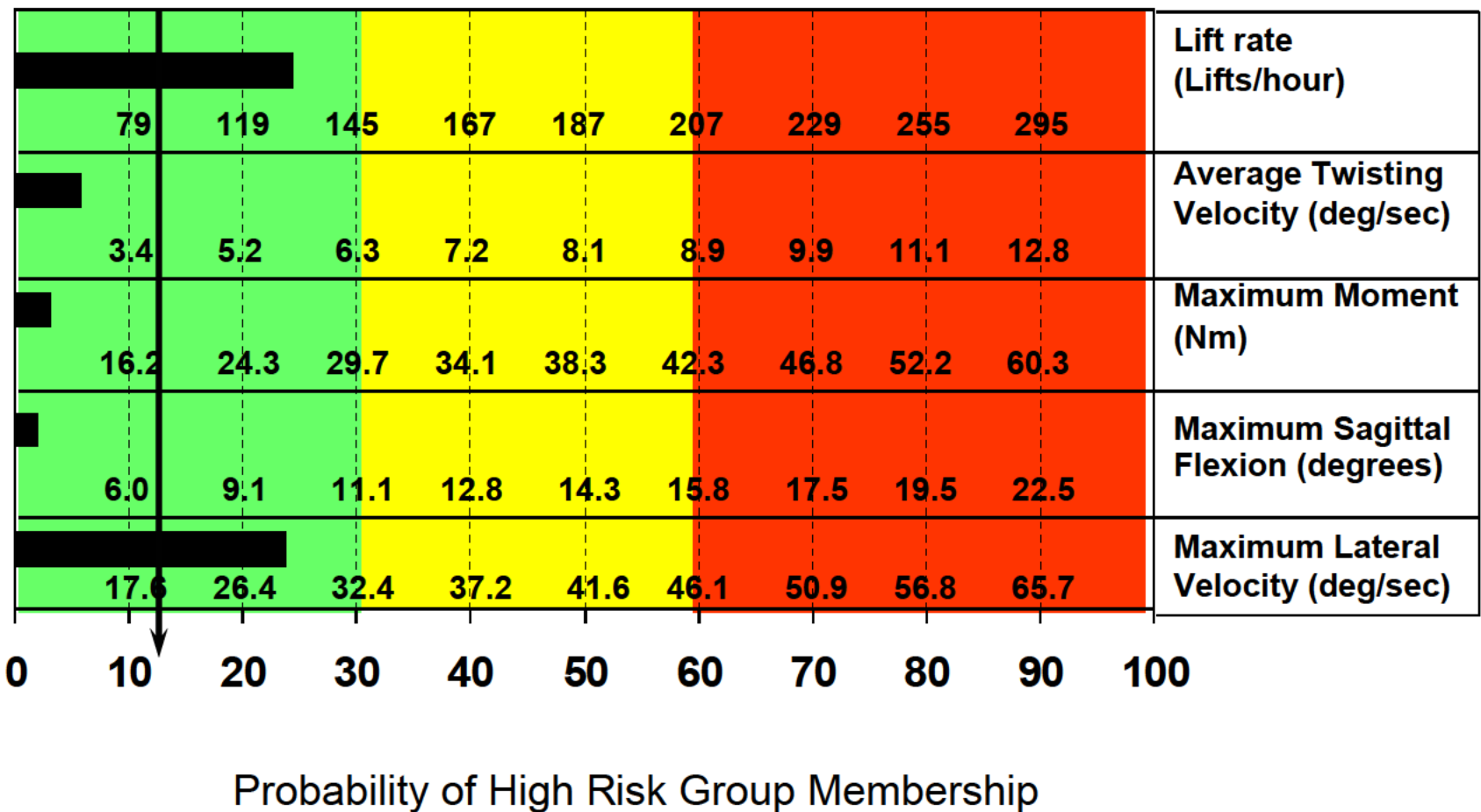
Job: Palletizer  
 Task 1: Load Product

Average Probability of Low Back Disorder Risk : 76%



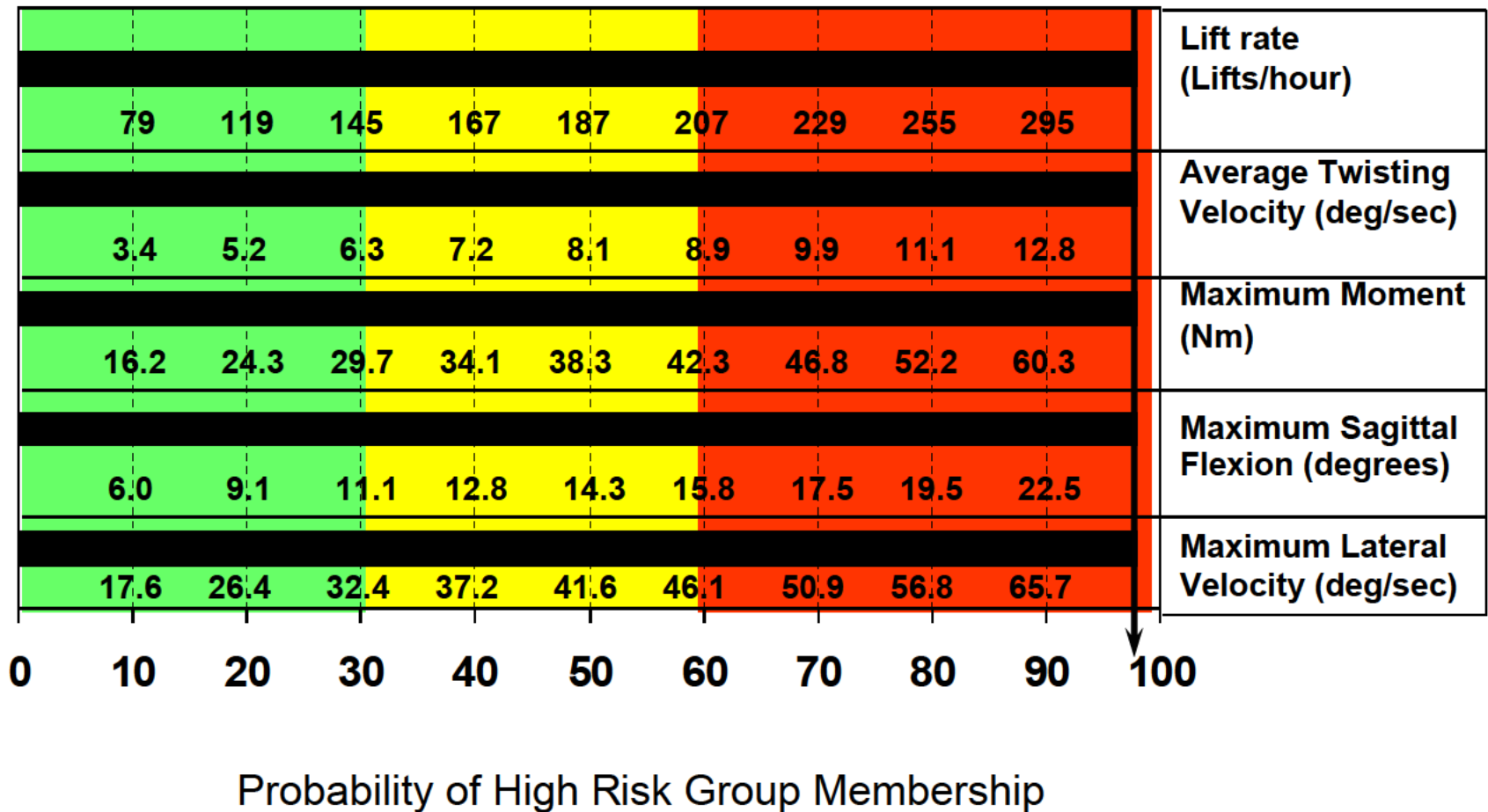
Job: Palletizer  
 Task 2: Move Cardboard

Average Probability of Low Back Disorder Risk : 11.8%



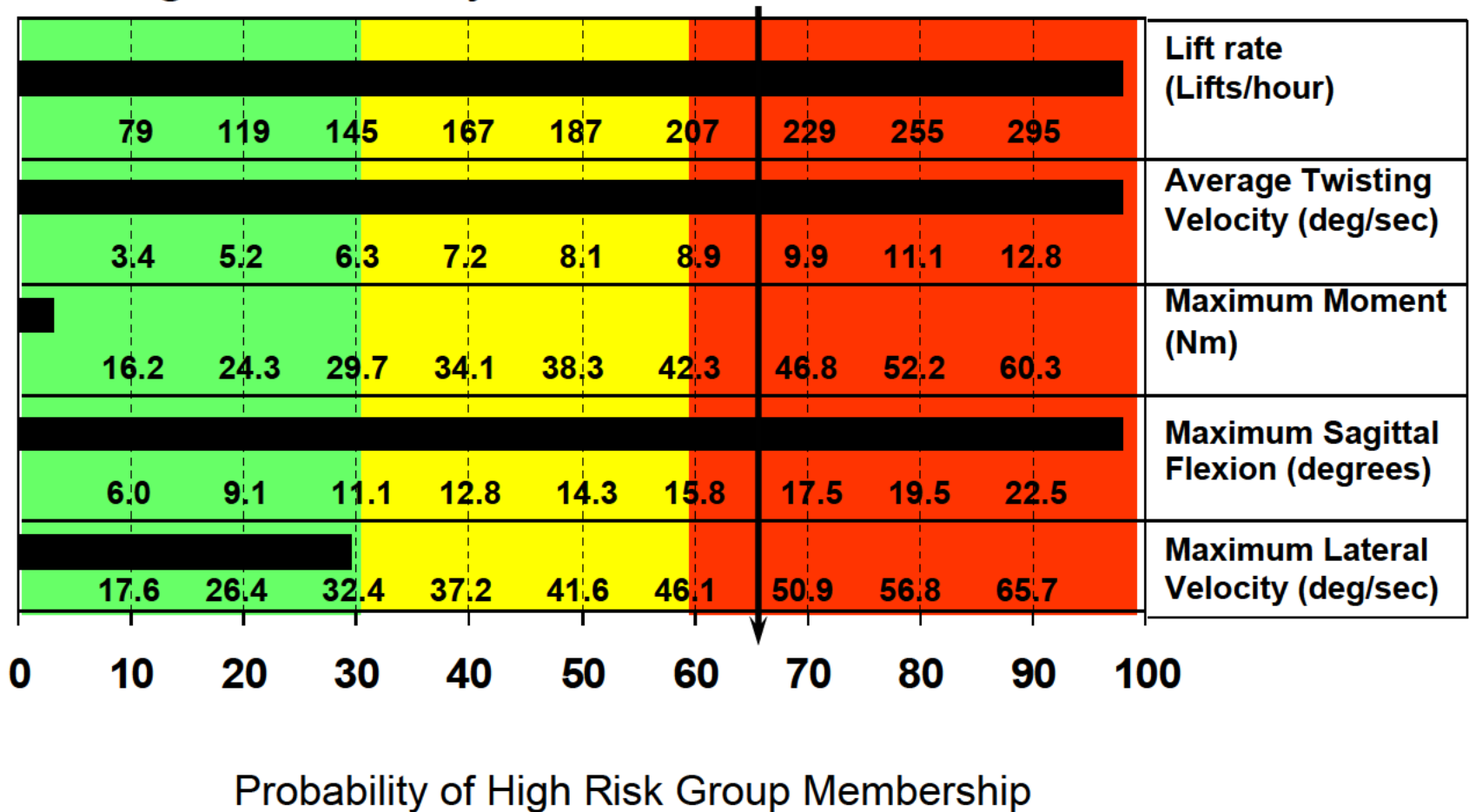
Type of Distribution : Grocery  
 Overall Job Risk: Packer  
 (5 workers, 5 tasks, 287 Trials)

Average Probability of Low Back Disorder Risk : 98%



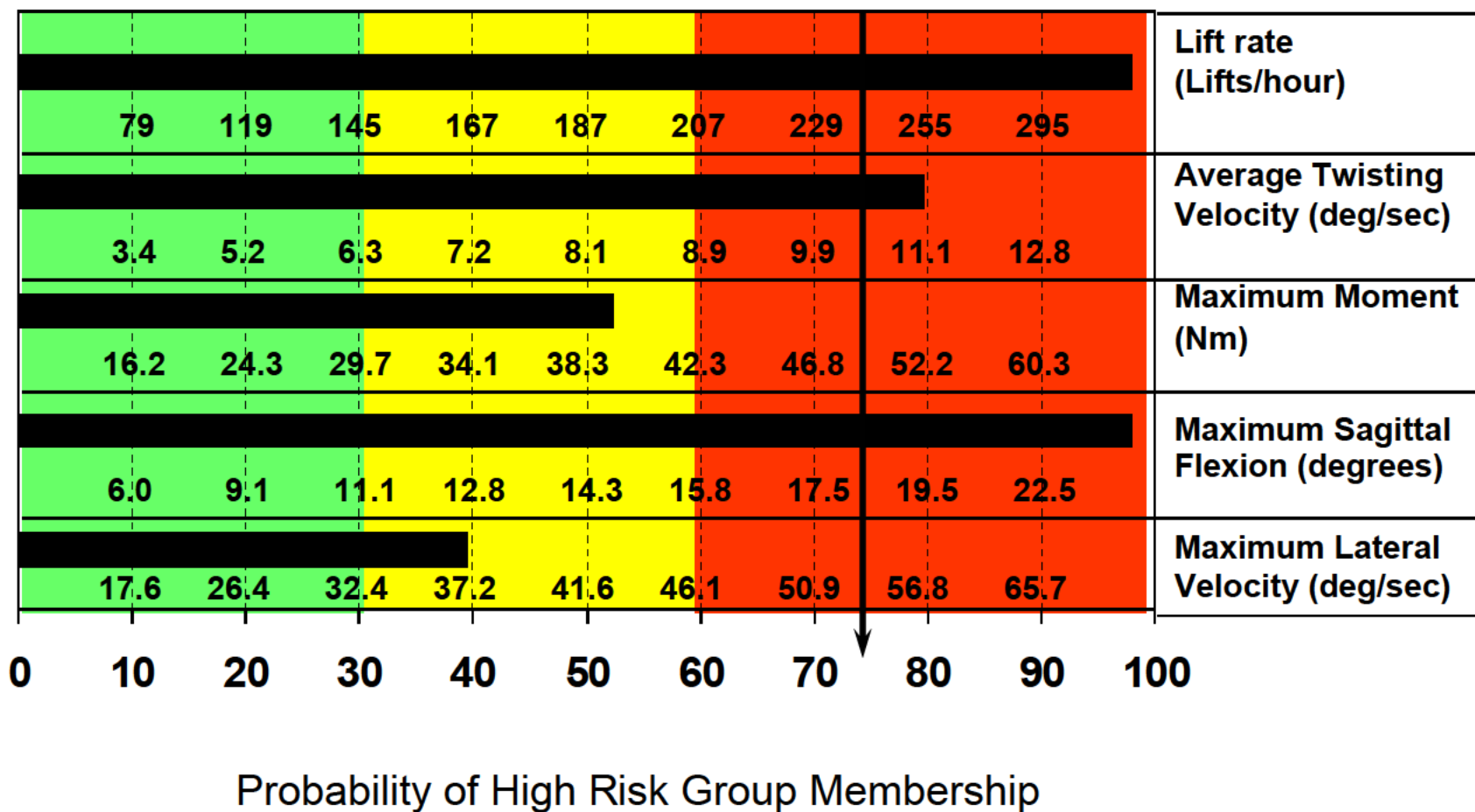
Job: Packer  
 Task 1: Load Basket

Average Probability of Low Back Disorder Risk : 65%



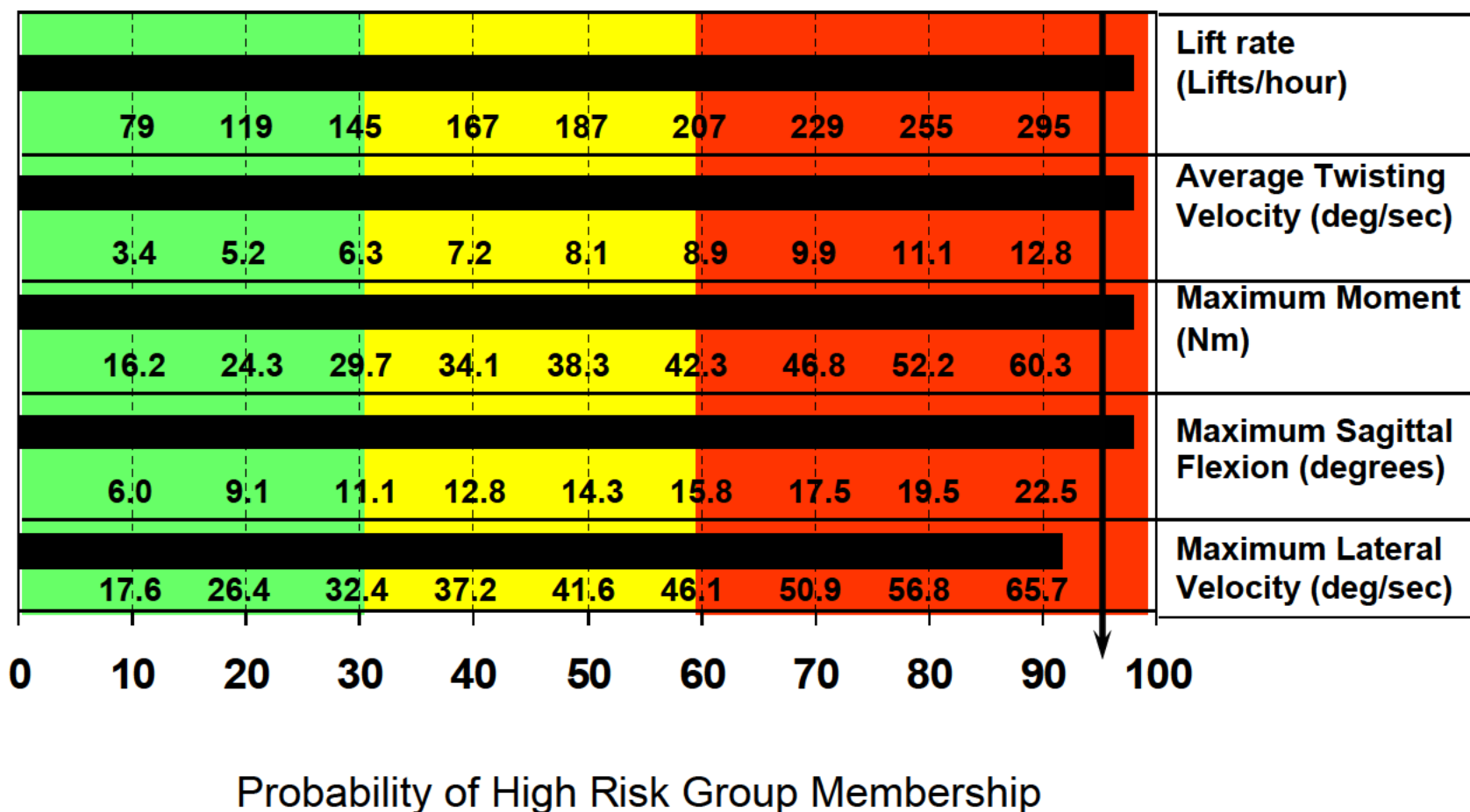
Job: Packer  
 Task 2: Offload Basket

Average Probability of Low Back Disorder Risk : 73.5%



Job: Packer  
 Task 3: Push Full Stack

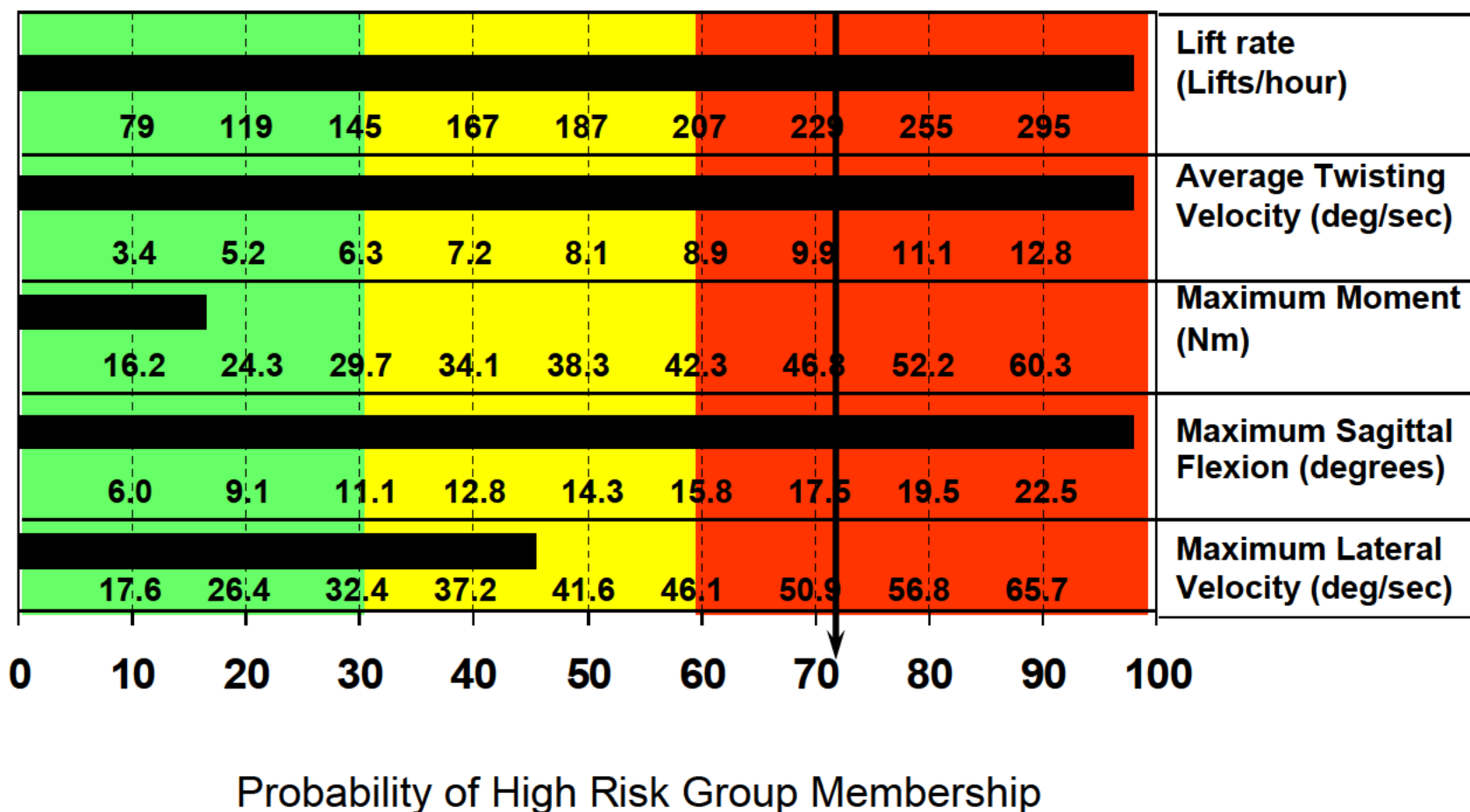
Average Probability of Low Back Disorder Risk : 96.7%





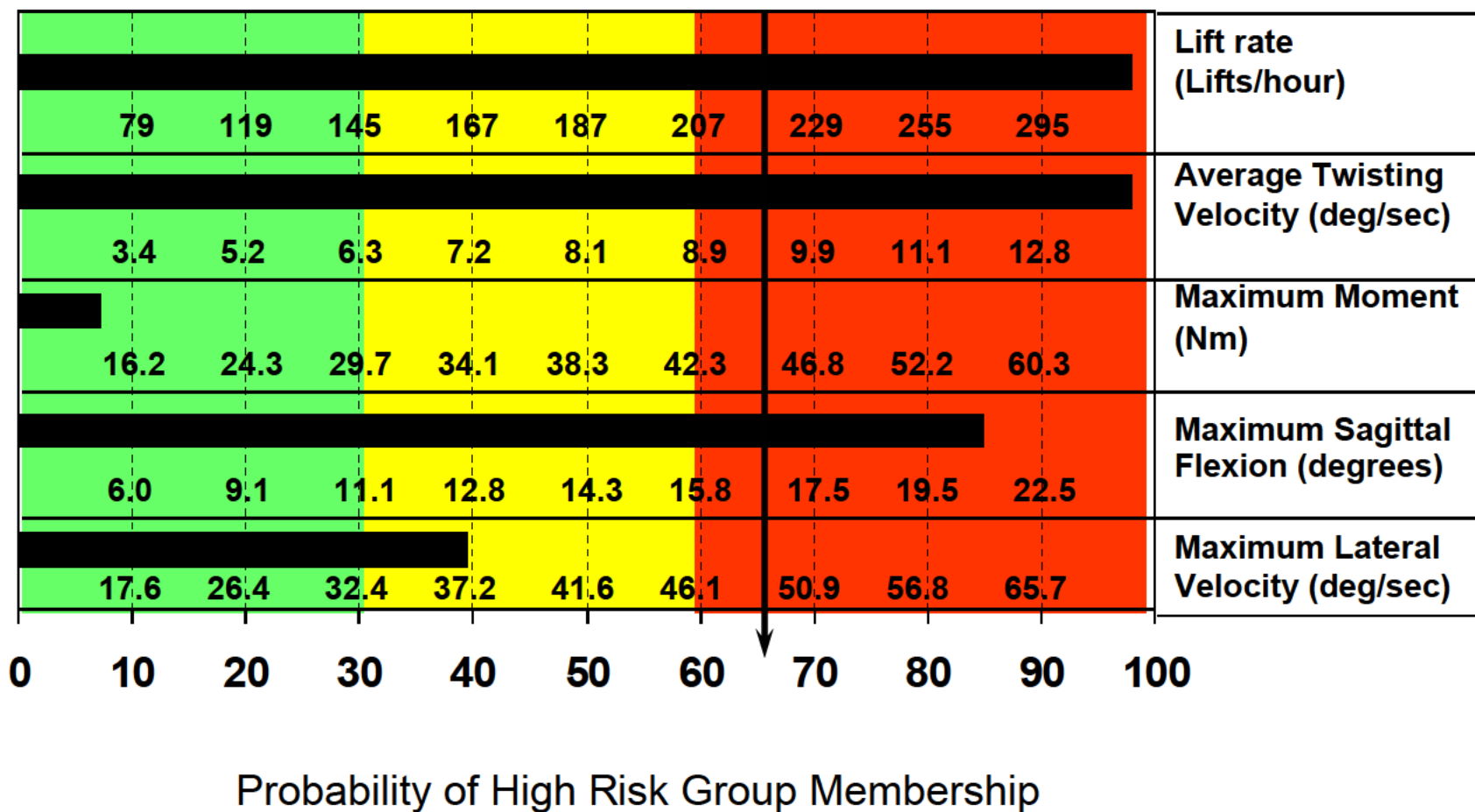
Job: Packer  
 Task 4: Retrieve Empty Basket

Average Probability of Low Back Disorder Risk : 71.2%



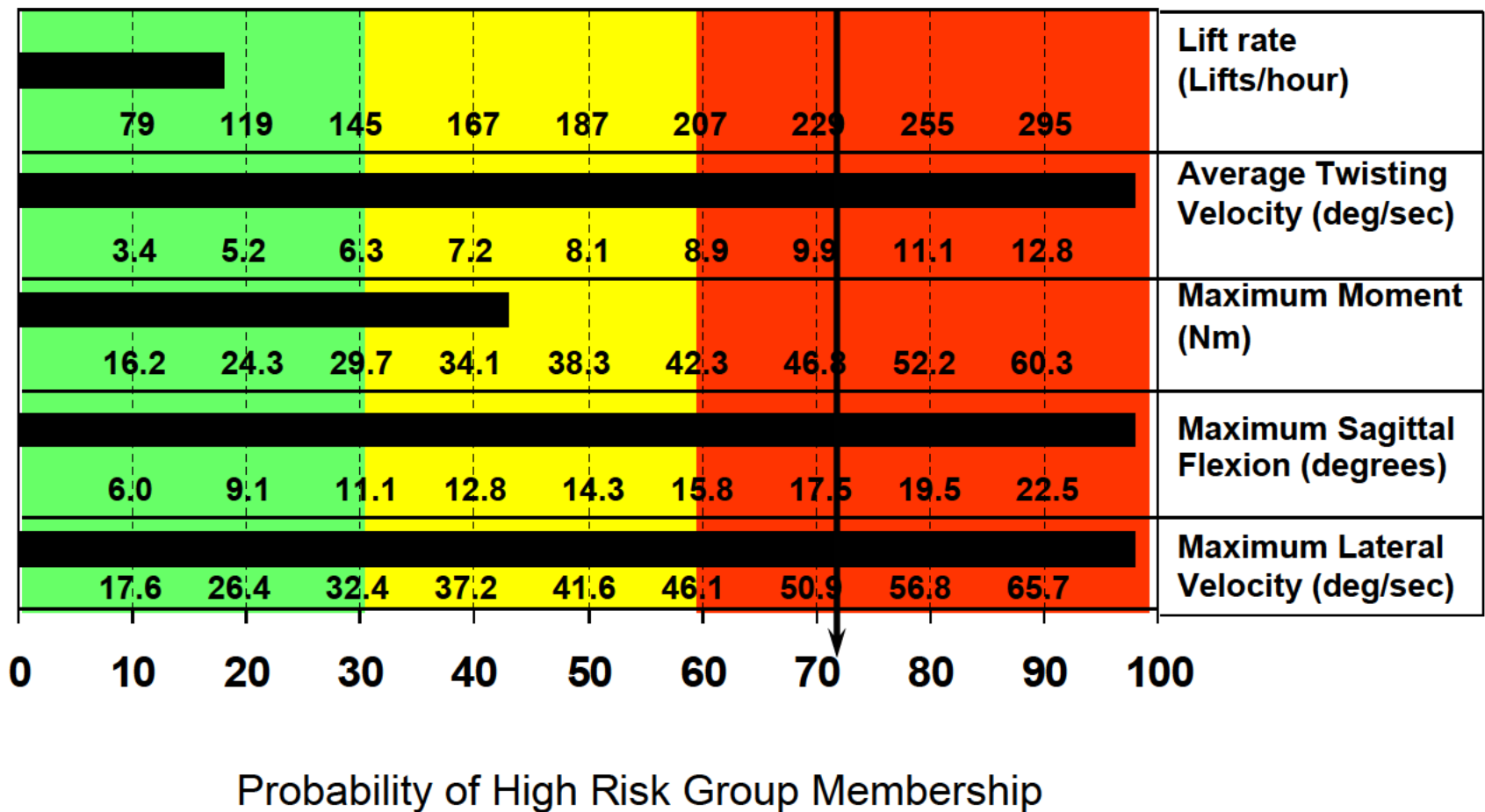
Job: Packer  
 Task 5: Retrieve Empty Basket Front

Average Probability of Low Back Disorder Risk : 66%



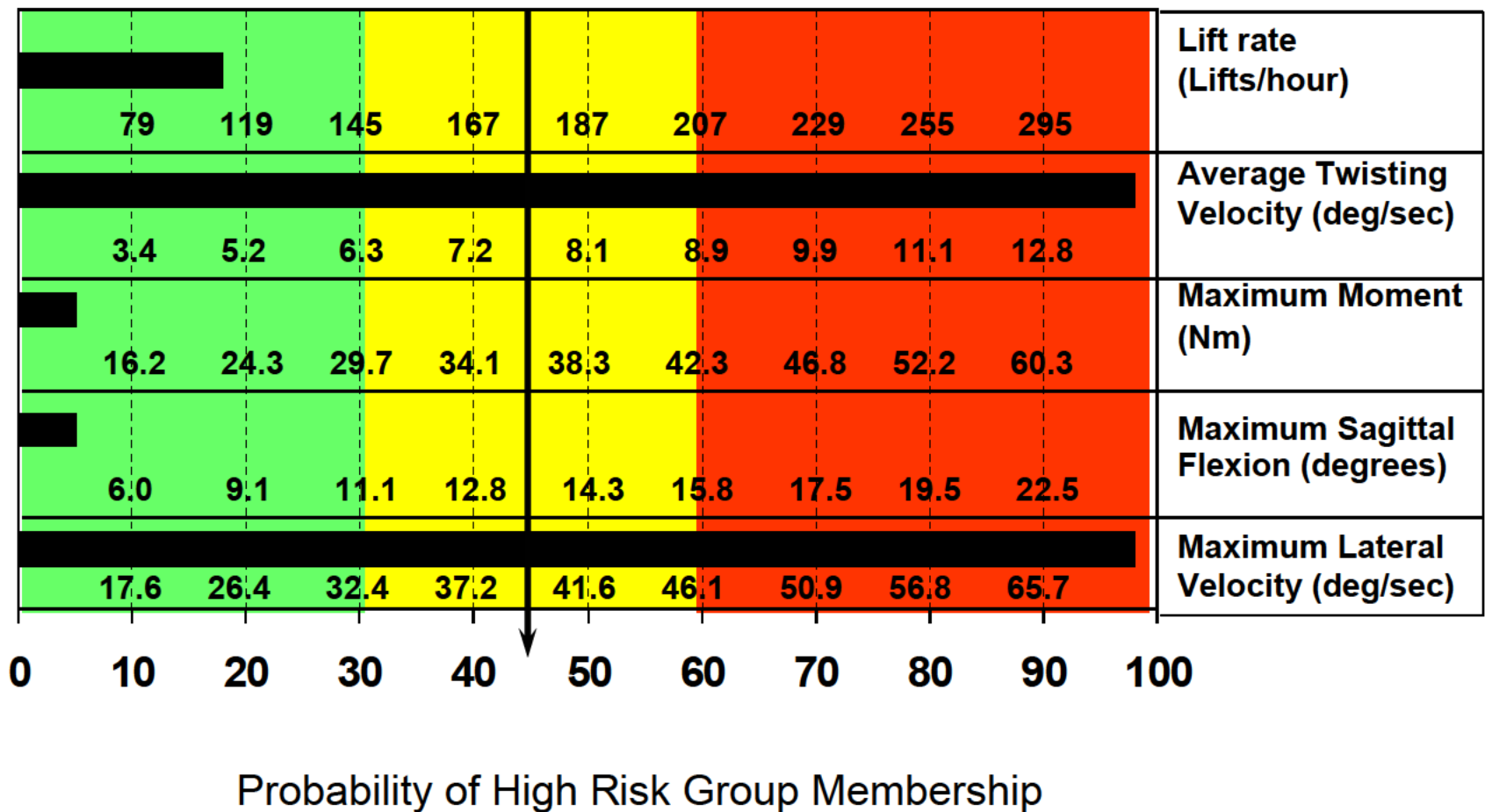
Type of Distribution: Department Store  
 Overall Job Risk: Open-to-Tote : Presort  
 (2 workers, 3 tasks, 49 Trials)

Average Probability of Low Back Disorder Risk : 71%



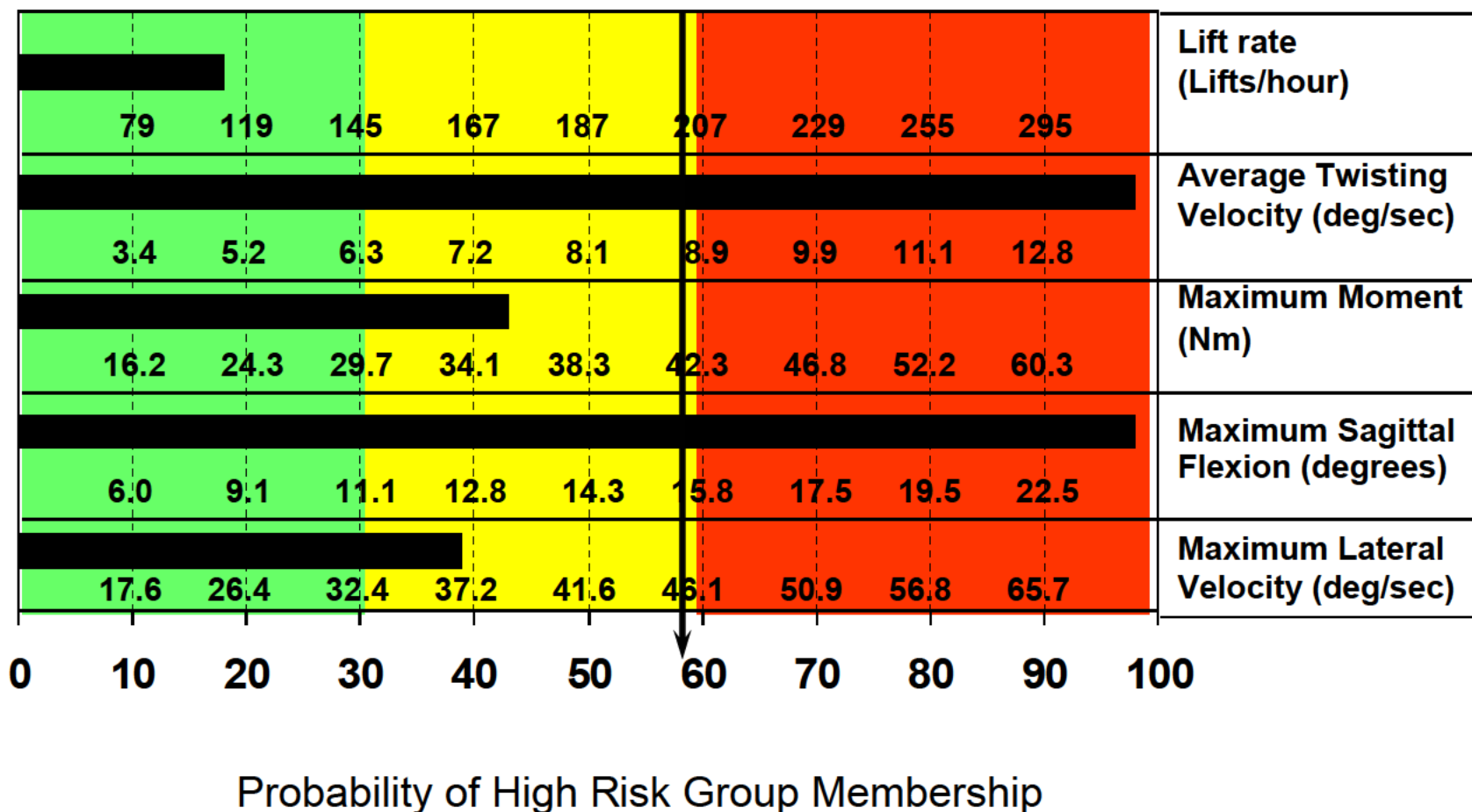
Job: Open-to-Tote : Presort  
 Task 1: Discard Cardboard

Average Probability of Low Back Disorder Risk : 44.8%



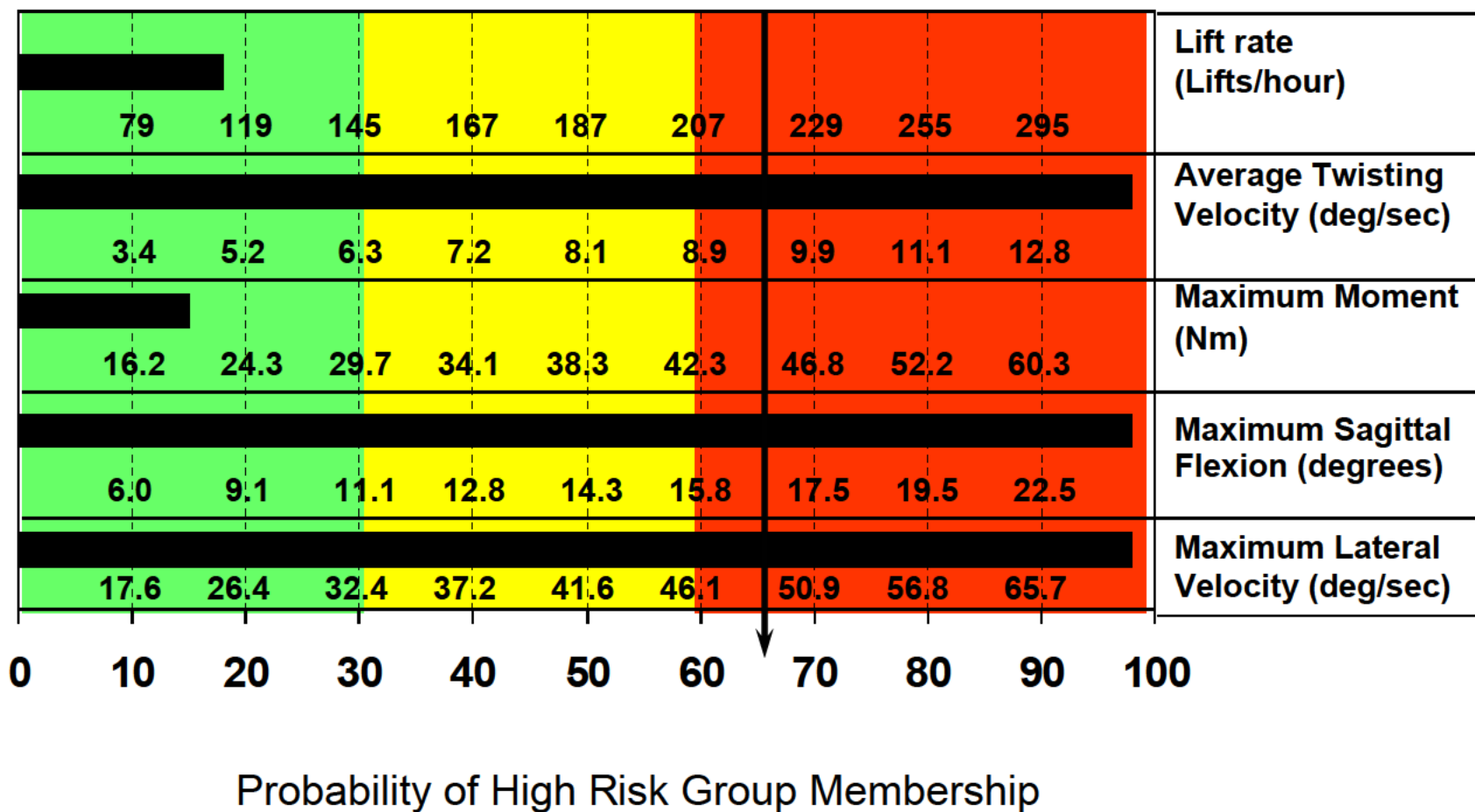
Job: Open-to-Tote : Presort  
 Task 2: Transfer Merchandise

Average Probability of Low Back Disorder Risk : 59.2%



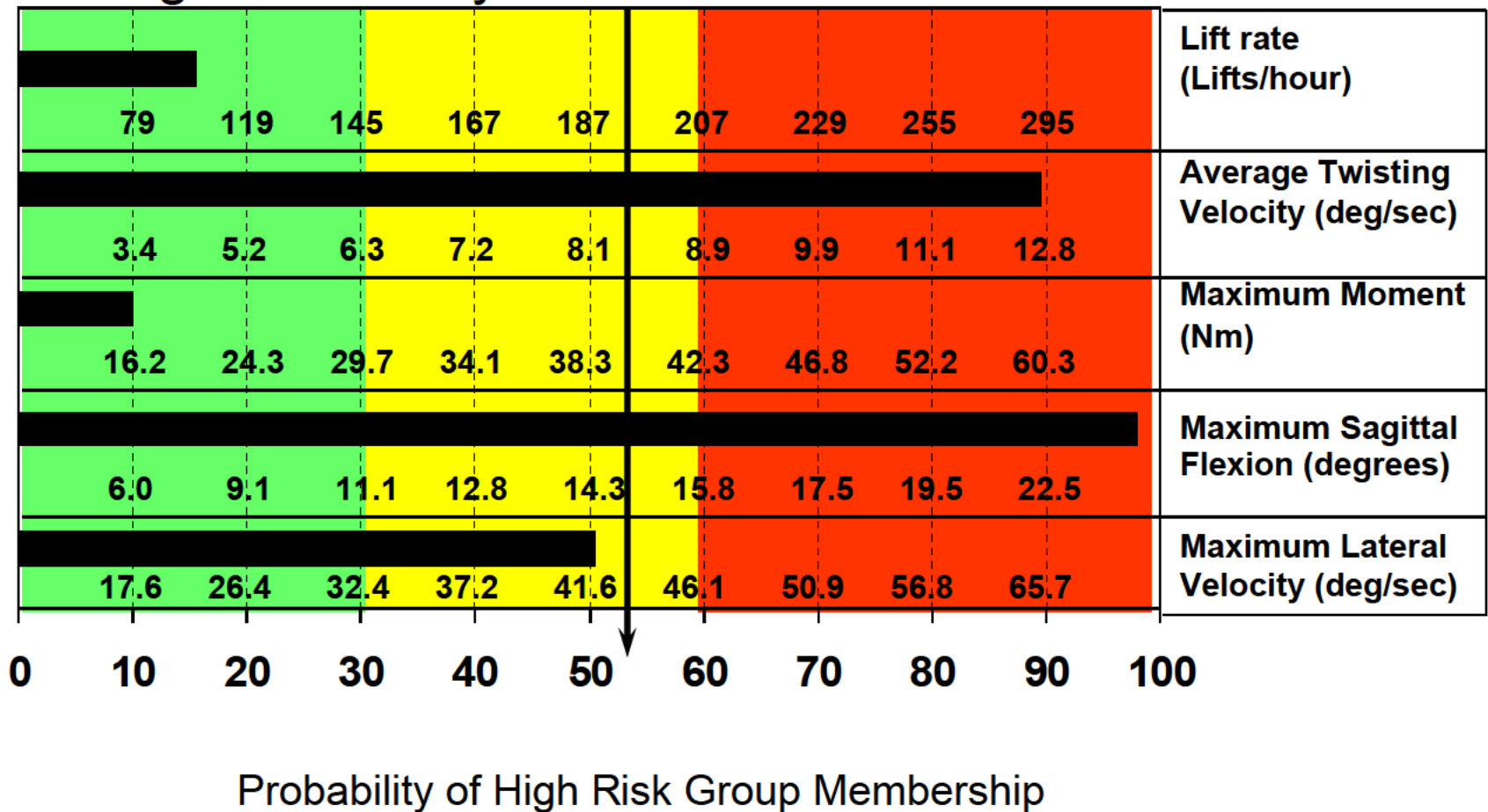
Job: Open-to-Tote : Presort  
 Task 3: Transfer Tote

Average Probability of Low Back Disorder Risk : 65.4%



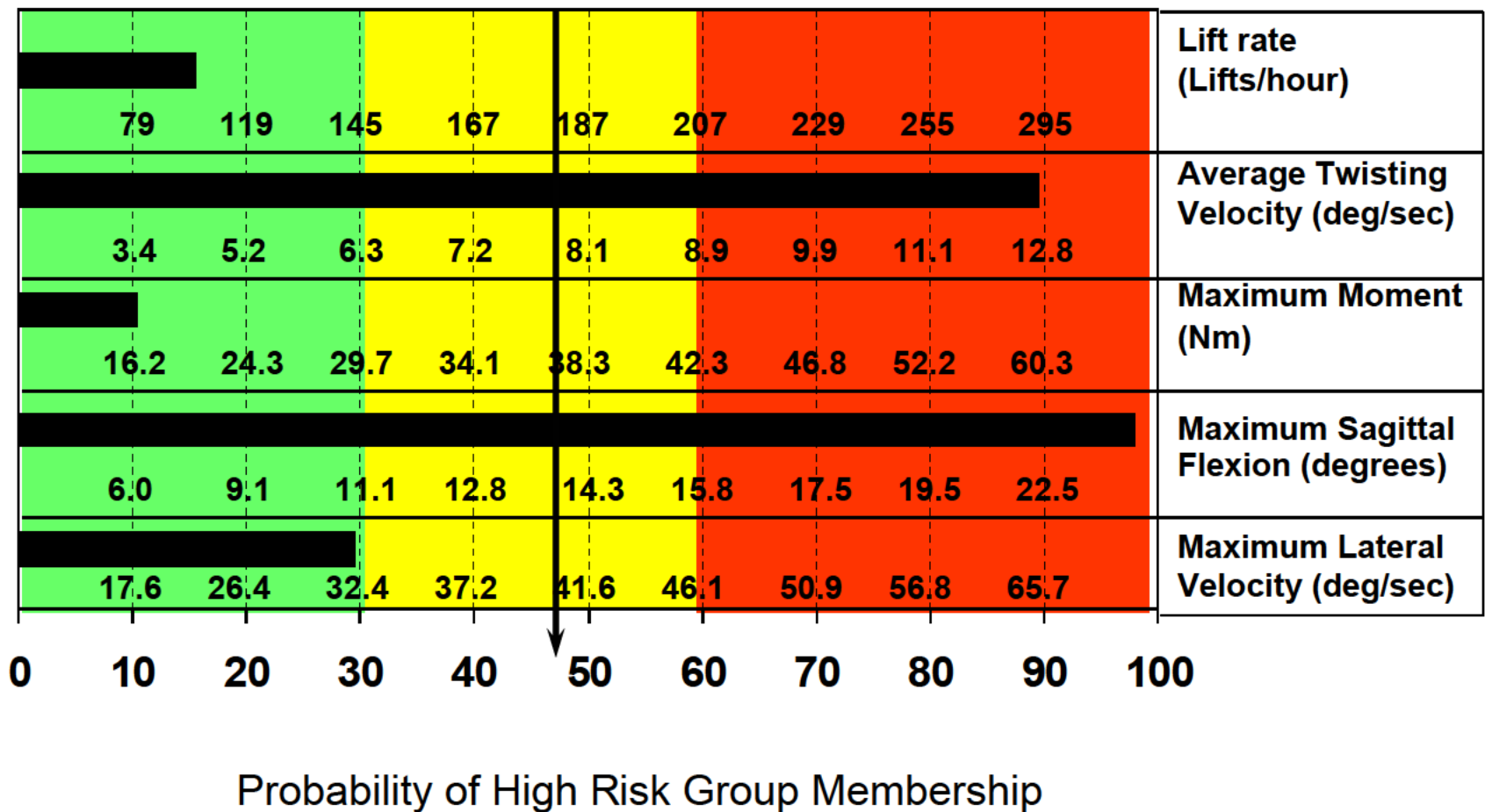
Type of Distribution : Department Store  
 Overall Job Risk: Flat : Break Packer  
 (2 workers, 2 tasks, 44 trials)

Average Probability of Low Back Disorder Risk : 53%



Job: Flat : Break Packer  
 Task 1: Put empty tote onto line

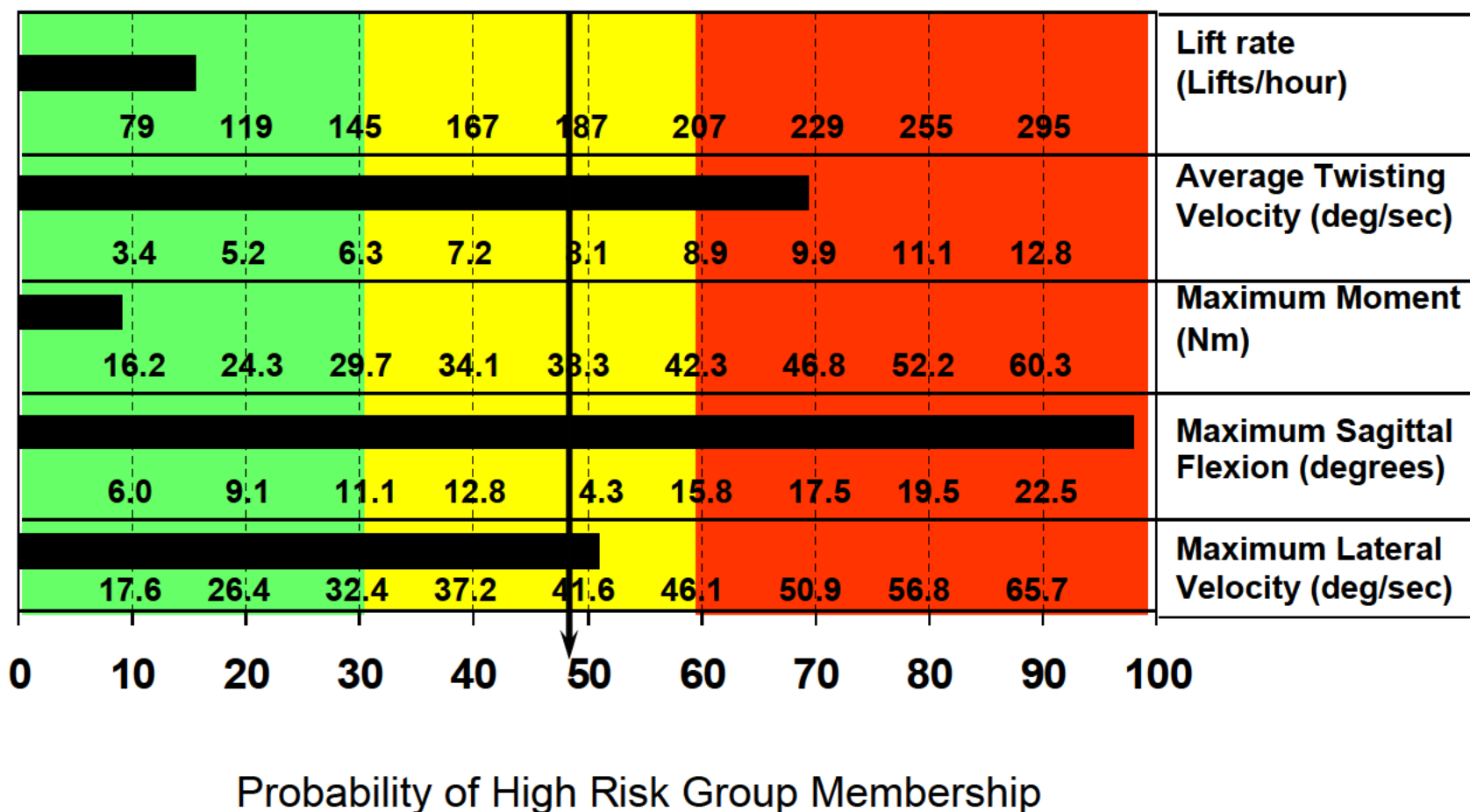
Average Probability of Low Back Disorder Risk : 48.6%





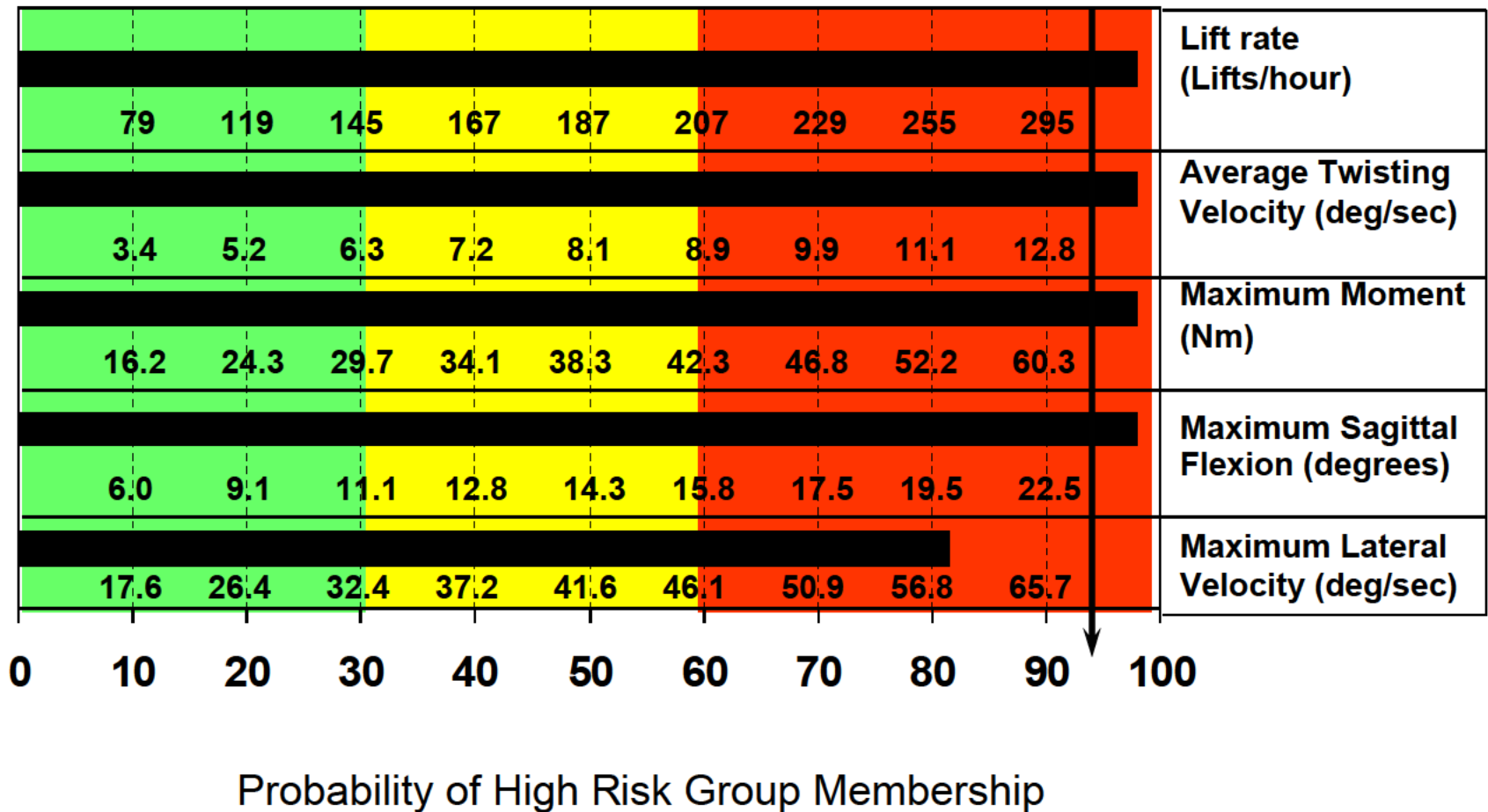
Job: Flat : Break Packer  
 Task 2: Put merchandise into tote

Average Probability of Low Back Disorder Risk : 48.6%



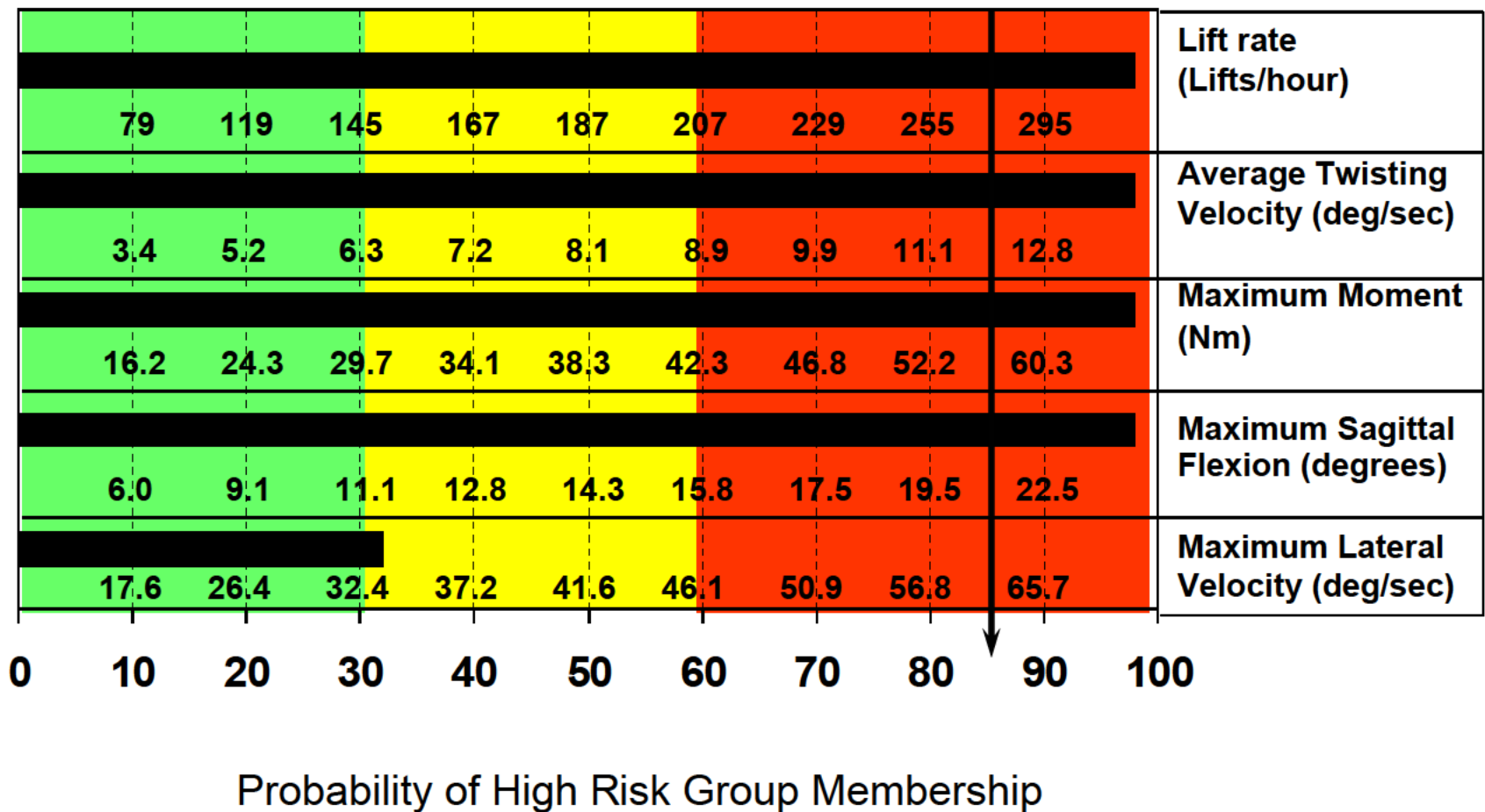
Type of Distribution: Clothing  
 Overall Job Risk: Flat: Material Handler  
 (2 workers, 2 tasks, 62 trials)

Average Probability of Low Back Disorder Risk : 95%



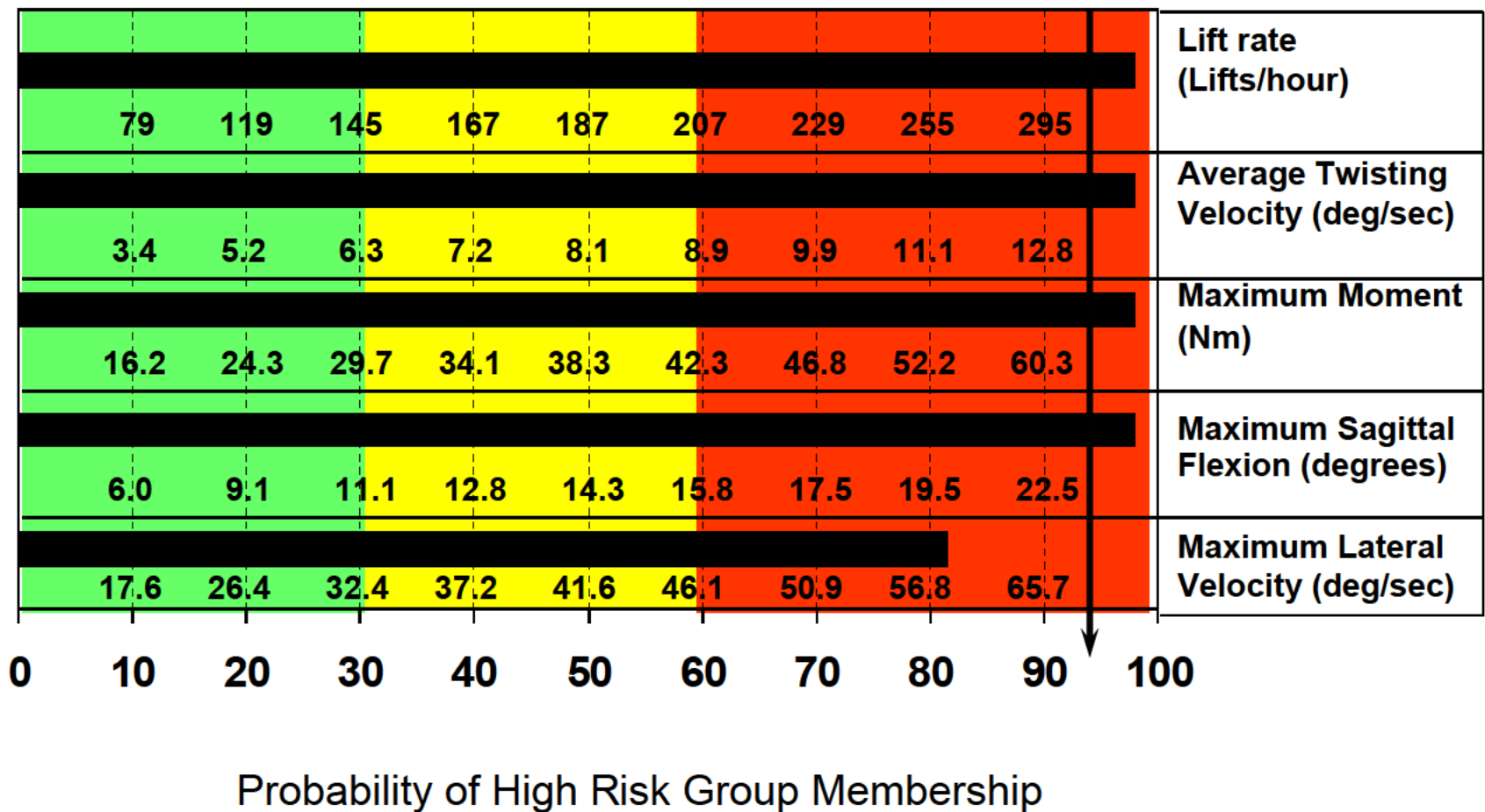
Job: Flat: Material Handler  
 Task 1: Move box from tier to conveyor

Average Probability of Low Back Disorder Risk : 85%



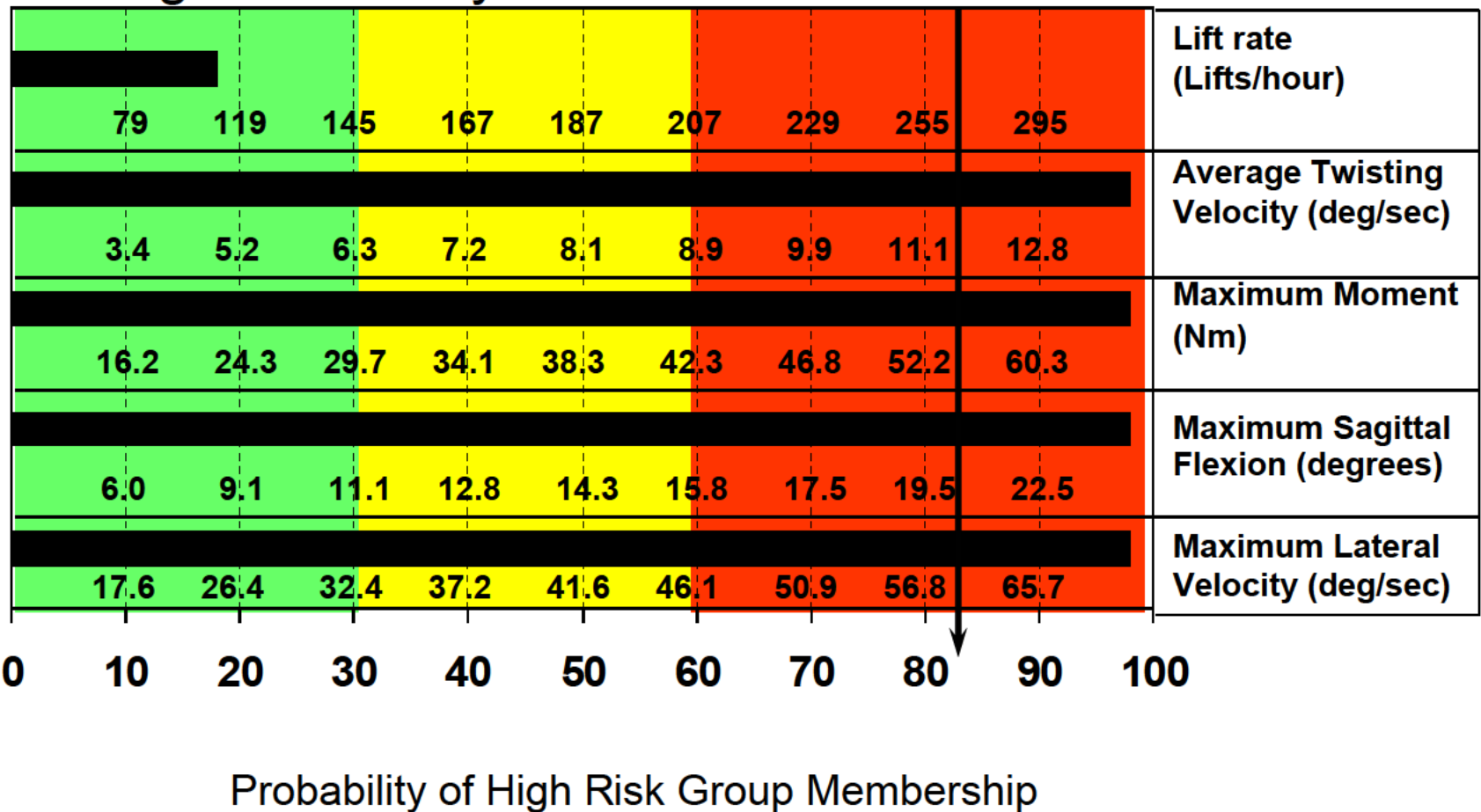
Job: Flat: Material Handler  
 Task 2: Move box from conveyor to tier

Average Probability of Low Back Disorder Risk : 95%



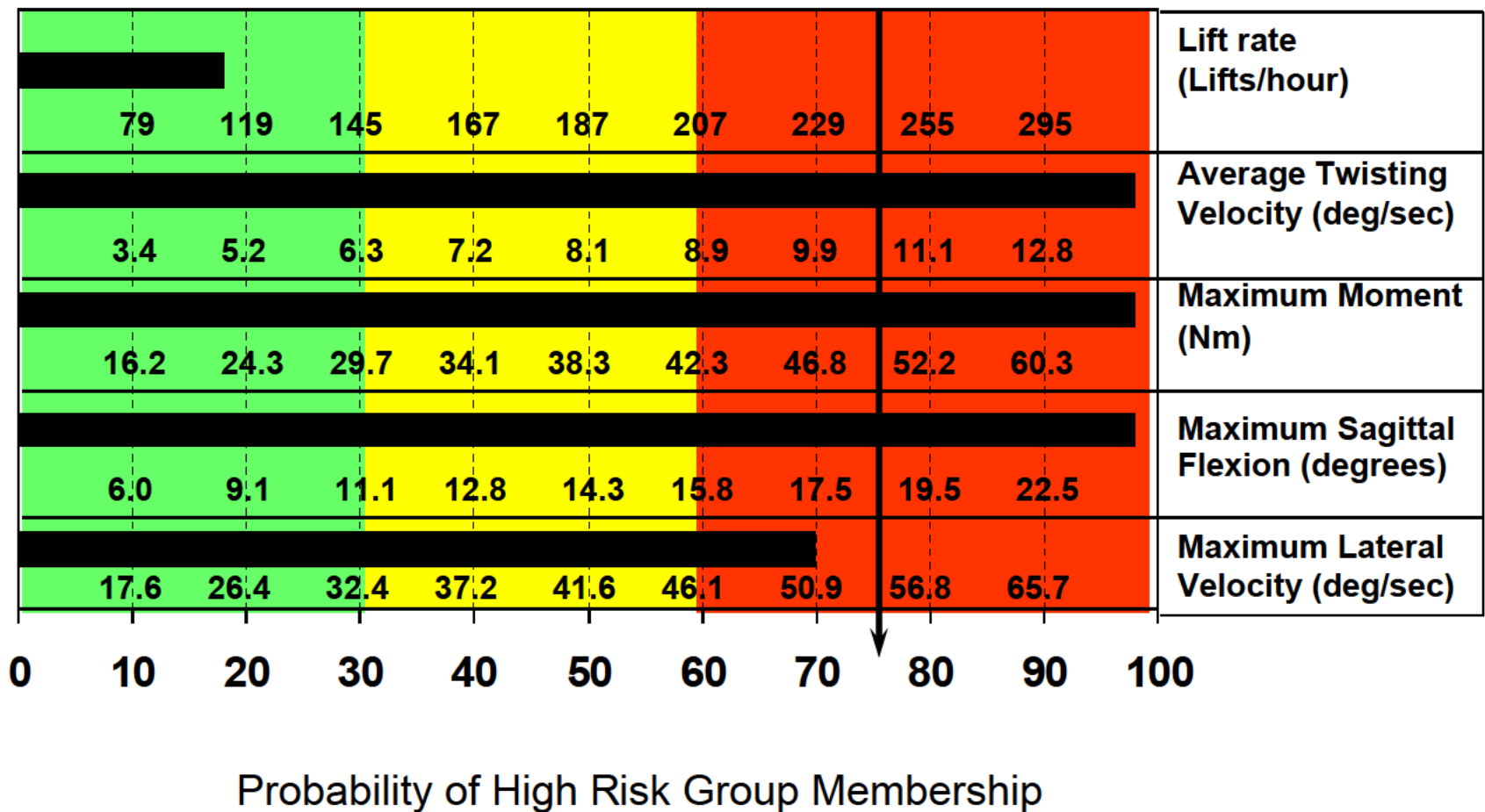
Type of Distribution: Personal Care  
 Overall Job Risk: Material Handler  
 (4 workers, 3 tasks, 97 trials)

Average Probability of Low Back Disorder Risk : 82%



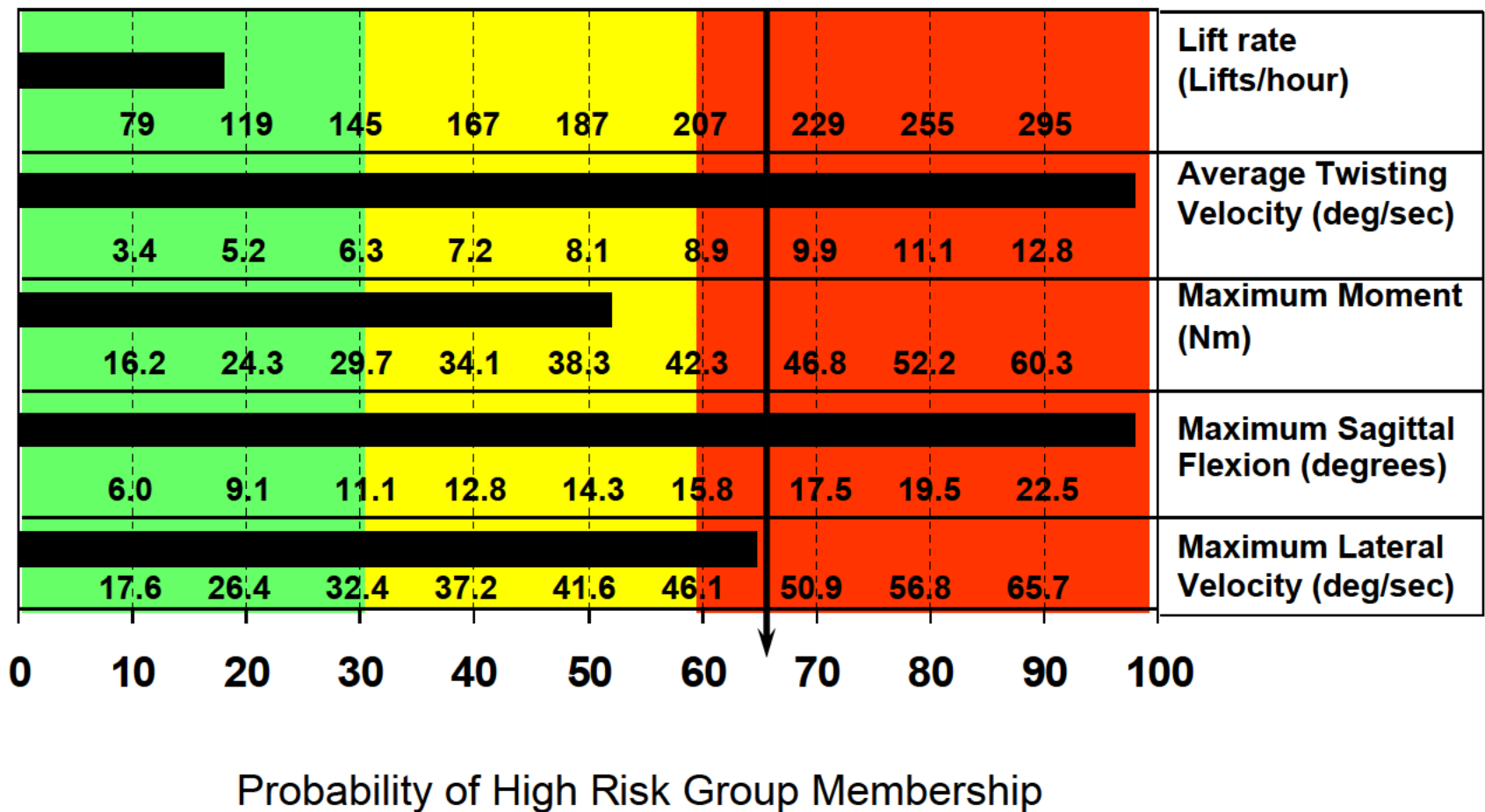
Job: Material Handler  
 Task 1: Palletizing Box

Average Probability of Low Back Disorder Risk : 76.4%



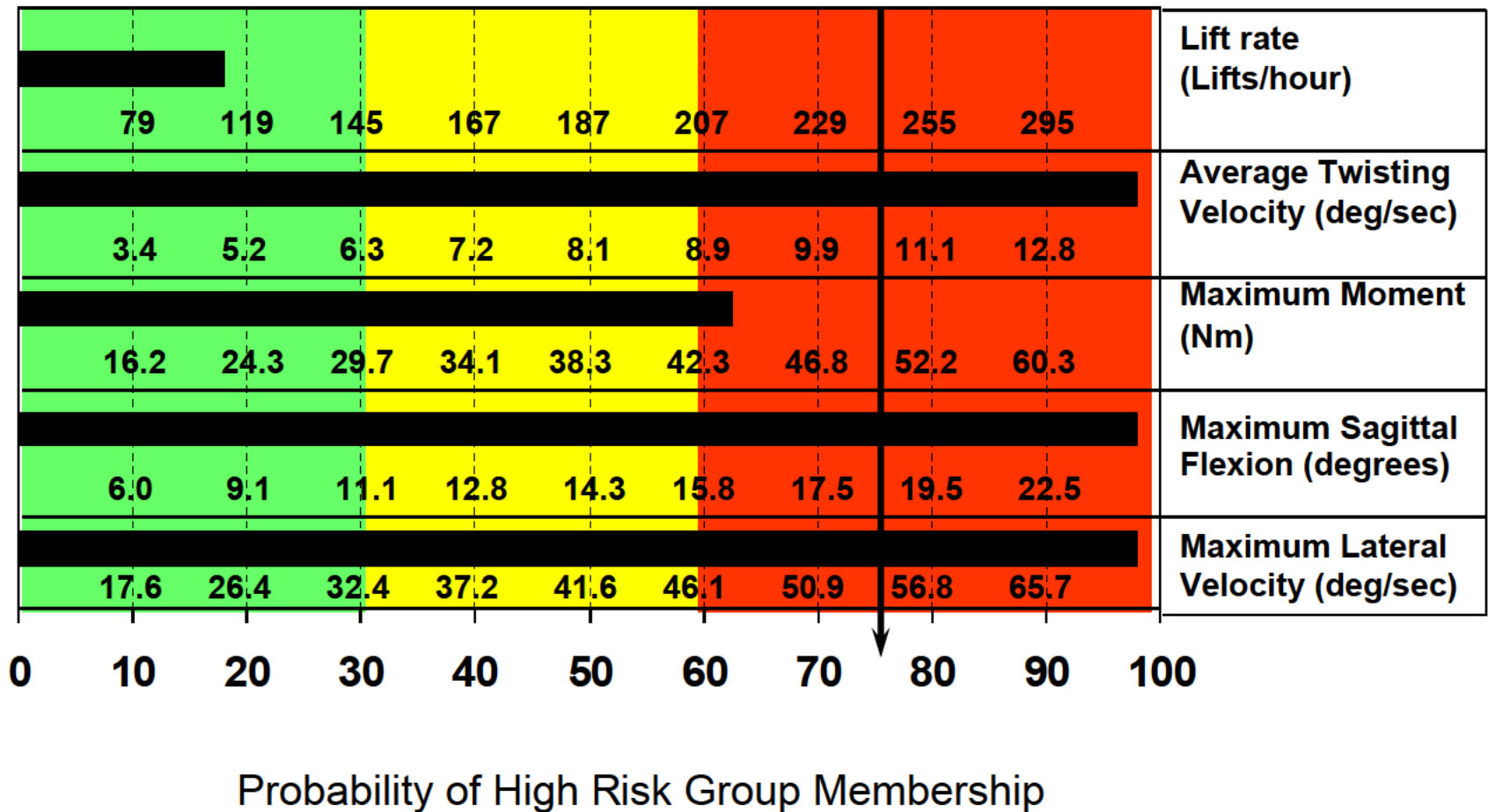
Job: Material Handler  
 Task 2: Pick Up Box

Average Probability of Low Back Disorder Risk : 66.2%



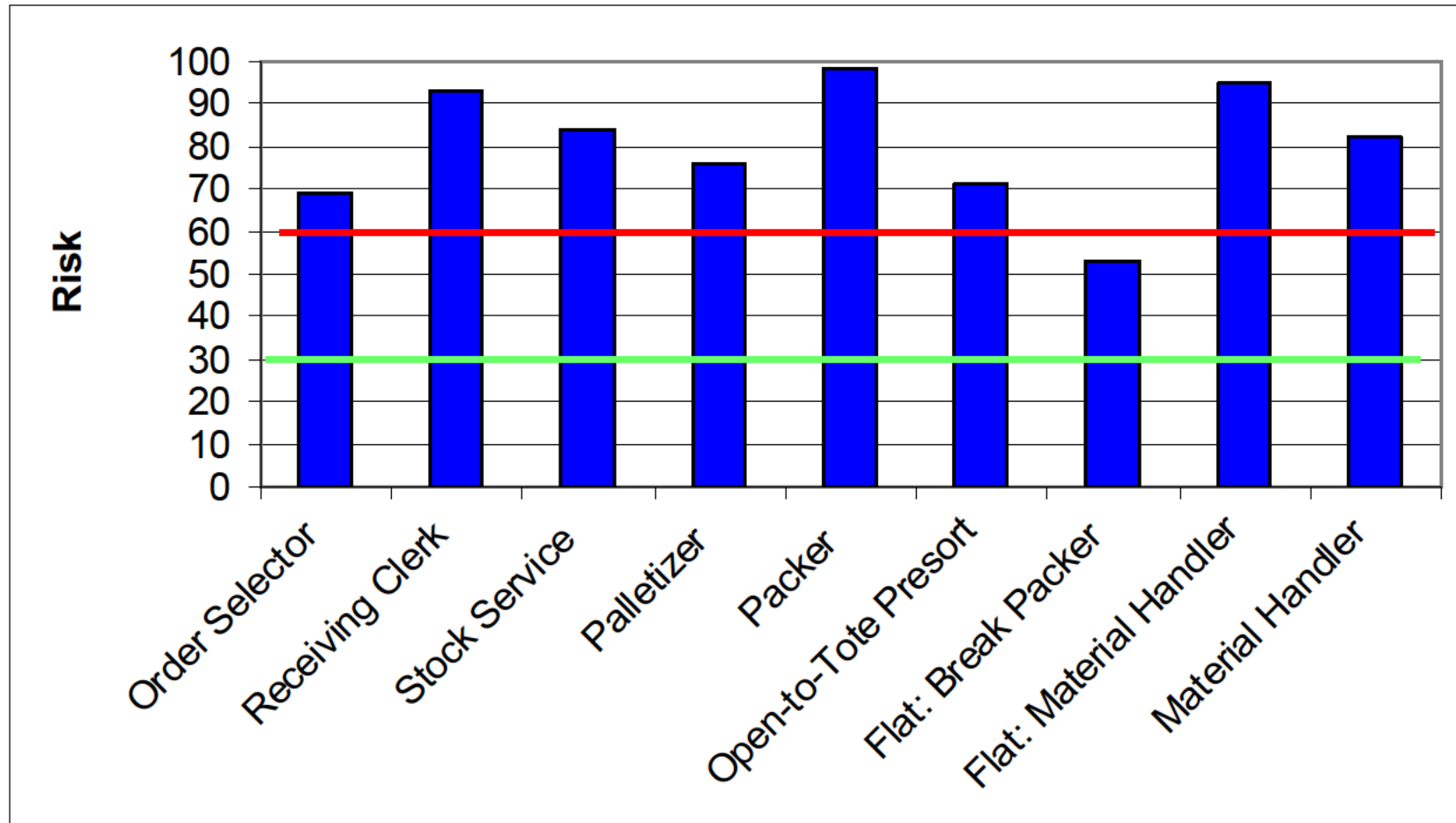
Job: Material Handler  
 Task 3: Unload Box in Hopper

Average Probability of Low Back Disorder Risk : 75%

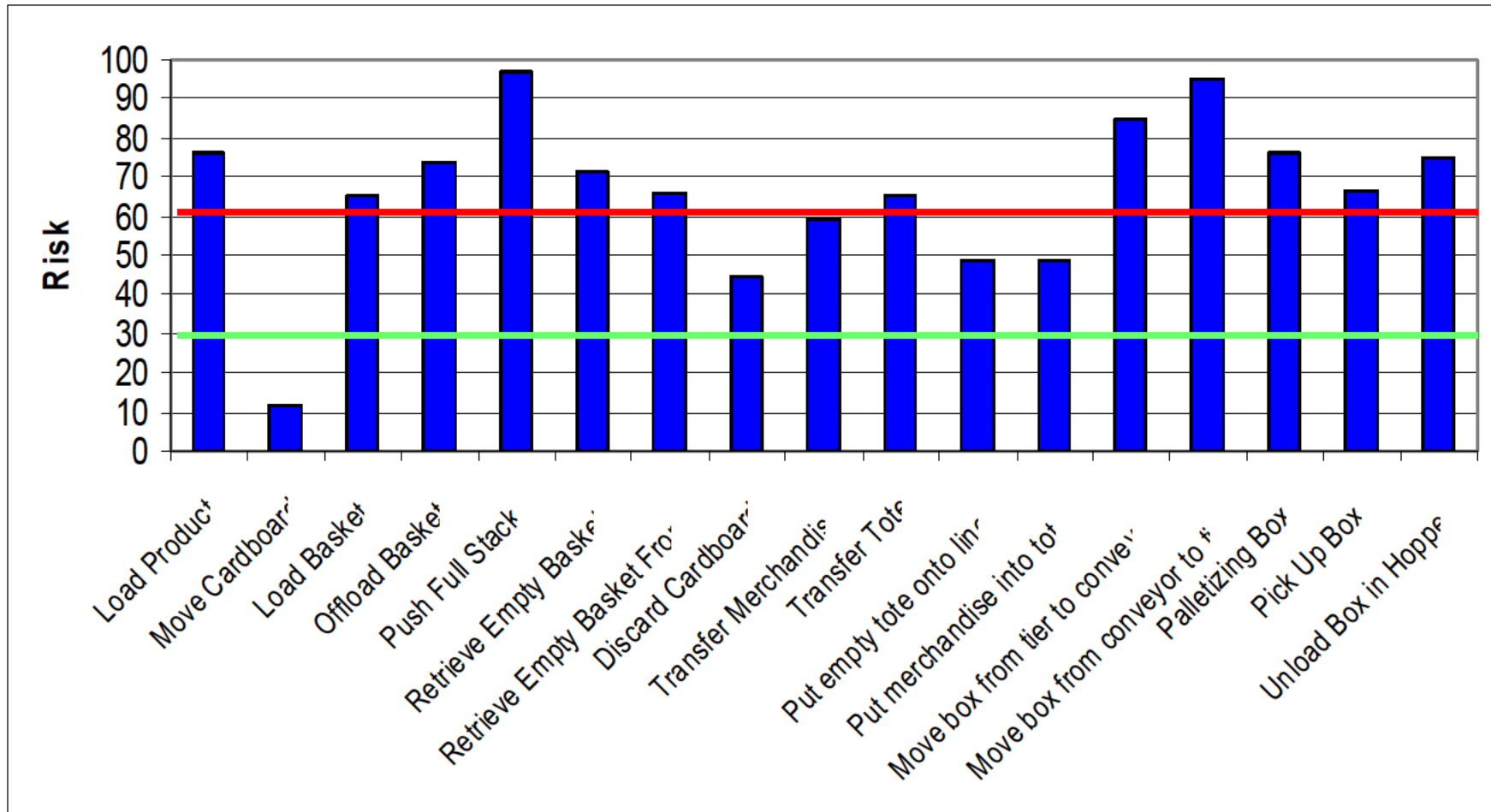




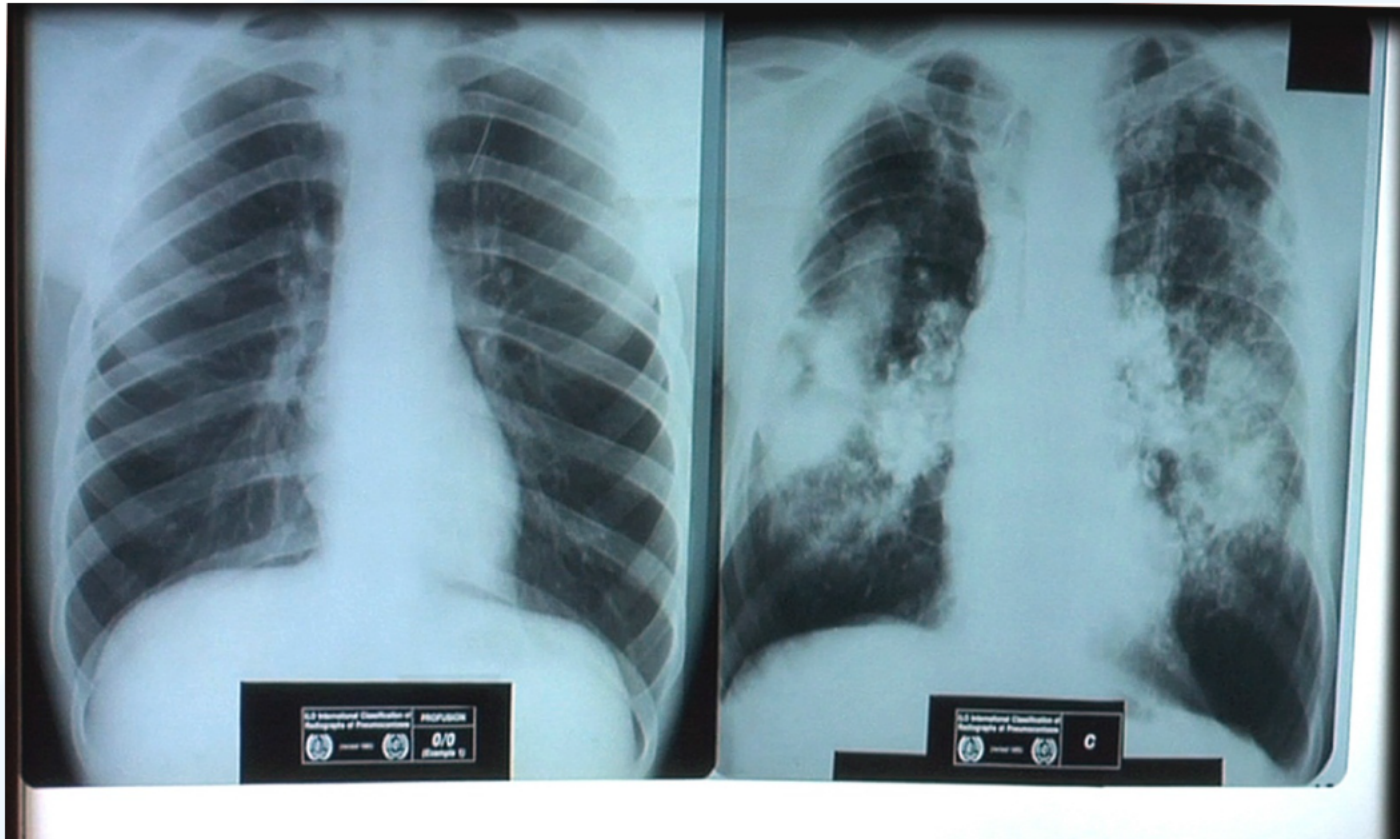
# Summary of Overall Risk Values as a Function of Job



# Summary of Risk Values as a Function of Task



# Protecting Workers Exposed to Respirable Crystalline Silica



William Perry  
David O'Connor  
Robert Stone

September 20, 2013

# OSHA's Proposed Rule

- Two proposed standards:
  - One for **General Industry** and **Maritime**
  - One for **Construction**
- Offer common sense, flexible approaches for employers

# Public Participation

- OSHA welcomes and encourages public input on the proposed silica rule.
  - Written comments
  - Public hearings
  - Post-hearing comments
- Comments and testimony are carefully considered
- OSHA's final rules are based on evidence in the record as a whole

# Dates

- November 12, 2013 – Notice of intention to appear due
- December 11, 2013 – Written comments due
- March 4, 2014 – Public Hearing

# Silica Exposures of Concern

- Workers can become ill if they inhale respirable crystalline silica
  - Respirable particles are very small (1/100<sup>th</sup> the size of a grain of sand)
  - Can penetrate deeply into the lungs
  - Can't be seen or smelled and must be measured using air sampling equipment

# Exposure and Health Risks

- Exposure to respirable crystalline silica has been linked to:
  - Silicosis;
  - Lung cancer;
  - Chronic obstructive pulmonary disease; and
  - Kidney and immune system disease



# Health Benefits of Rule

- Nearly 700 fatalities avoided annually
  - Lung cancer: 165
  - Silicosis and other non-cancer lung diseases: 381
  - End-stage kidney disease: 153
- Over 1,600 silicosis cases avoided annually

# Underreporting of Silica-Related Diseases

- Deaths and illnesses from diseases other than silicosis not attributed to silica exposure
- No comprehensive counting of new silicosis cases or deaths
- Under-recognition and under-reporting even where there is reporting
- Death certificate data flawed & limited

# Underreporting of Silicosis Cases

- Goodwin et al. (2003) examined X-rays of deceased workers from New Jersey – 8.5% of them had silicosis not previously identified
- Rosenman et al. (2003) identified substantial underreporting of new silicosis cases – analyses indicated 3,600 to 7,300 new cases per year from 1987 to 1996

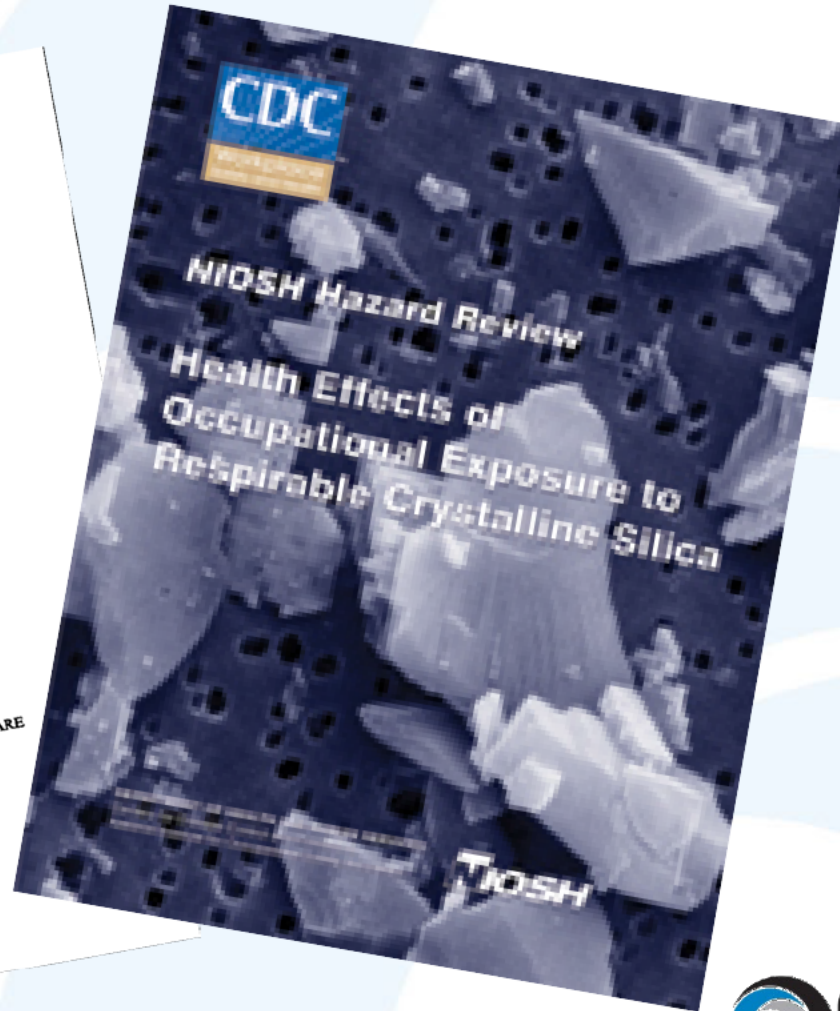
# NIOSH Recommendations

criteria for a recommended standard . . . .  
**OCCUPATIONAL EXPOSURE  
TO  
CRYSTALLINE SILICA**



U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Public Health Service  
Center for Disease Control  
National Institute for Occupational Safety and Health  
1974

For sale by the Superintendent of Documents, U.S. Government  
Printing Office, Washington, D.C. 20540



# Some Reasons for the Proposed Rule

- Current Permissible Exposure Limits (PELs) are formulas that many find hard to understand
- Construction/shipyard PELs are obsolete particle count limits
- General industry formula PEL is about equal to  $100 \mu\text{g}/\text{m}^3$ ; construction/shipyard formulas are about  $250 \mu\text{g}/\text{m}^3$

# Most Important Reason for the Proposed Rule

- Current PELs do not adequately protect workers
- Extensive epidemiologic evidence that lung cancer and silicosis occur at exposure levels below  $100 \mu\text{g}/\text{m}^3$

# Some International Silica OELs

- Canada
  - Alberta – 25  $\mu\text{g}/\text{m}^3$
  - Nova Scotia – 25  $\mu\text{g}/\text{m}^3$
  - Saskatchewan – 50  $\mu\text{g}/\text{m}^3$
- Italy – 25  $\mu\text{g}/\text{m}^3$
- Ireland – 50  $\mu\text{g}/\text{m}^3$
- Netherlands – 75  $\mu\text{g}/\text{m}^3$

# OSHA's Proposed Rule

- Establishes new PEL of 50  $\mu\text{g}/\text{m}^3$
- Includes provisions for:
  - Measuring worker exposures to silica;
  - Limiting access to areas where workers could be exposed above the PEL;
  - Use of dust controls;
  - Use of respirators when necessary;
  - Medical exams for highly exposed workers;
  - Worker training; and
  - Recordkeeping.





# Flexibility for Exposure Measurements

- Fixed schedule option
- Performance option – assess as necessary to adequately characterize exposures
- Exposure monitoring not required for construction employers who choose to implement dust controls listed in Table 1

# Measuring Silica Exposures

- Silica exposure can be accurately measured at proposed AL and PEL
- Proposed standard ensures reliability of measurements by specifying
  - Sampling and analysis methods to use
  - Laboratory qualifications

# Flexibility for Dust Controls

- Employers can use any dust or work practice controls to protect workers, such as:
  - Water sprays
  - Enclosures
  - Vacuum dust collection systems
  - Prohibiting dry sweeping

# Dust Controls

Grinding  
without dust controls



Grinder with vacuum dust  
collector



# Use of Respirators

- Allows for respirator use when
  - Dust or work practice controls cannot reduce exposures to the PEL
  - Dust controls are being installed

# OSHA Listens to Small Business Concerns

- Small businesses asked OSHA to simplify compliance, while maintaining worker protection.
- OSHA proposes Table 1 which reduces employer burdens of having to determine:
  - Employee exposures
  - What types of controls are needed

# Additional Flexibility for Construction Employers

- Table 1 in the construction standard matches tasks with effective dust control methods and respirators.
- If employers choose to follow Table 1:
  - They would not have to determine worker exposures to silica
  - They would have to offer medical exams to workers doing tasks that require respirators for more than 30 days a year

# Table 1 Example

Table 1. Exposure Control Methods for Selected Construction Operations			
Operation	Engineering and Work Practice Control Methods	Required Air-Purifying Respirator (Minimum Assigned Protection Factor)	
		≤ 4 hr/day	> 4 hr/day
<b>Using Stationary Masonry Saws</b>	Use saw equipped with integrated water delivery system. (Plus additional specifications)	None	Half-Mask (10)



# Medical Surveillance

- Covers workers exposed above PEL for 30 or more days per year
- Initial exam followed by periodic exam every 3 years
- Exam includes medical and work history, physical exam, chest X-ray, and pulmonary function test (TB test on initial exam only)

## Distribution of Silica Exposures by Sector (Total Affected Employees)

Sector	Silica Exposure Range					Total
	<25 µg/m <sup>3</sup>	25-50 µg/m <sup>3</sup>	50-100 µg/m <sup>3</sup>	100-250 µg/m <sup>3</sup>	>250 µg/m <sup>3</sup>	
<b>Construction</b>	998,485 54.0%	202,883 11.0%	227,529 12.3%	204,276 11.0%	216,003 11.7%	1,849,175 100.0%
<b>General Industry/ Shipyards</b>	123,274 38.5%	58,617 18.3%	45,840 14.3%	35,670 11.1%	56,924 17.8%	320,326 100.0%
<b>Total</b>	1,121,759 51.7%	261,500 12.0%	273,369 12.6%	239,946 11.1%	272,927 12.6%	2,169,501 100.0%



# Employer Obligations by Exposure Level

Provision	Exposure Level		
	≤AL	≥AL but ≤PEL	>PEL
<b>(d) Exposure assessment</b>	<p>Initial assessment if employees reasonably expected to be exposed ≤AL</p> <p>OR</p> <p>Follow Table 1 (for construction)</p>	<p>Initial assessment if employees reasonably expected to be exposed ≤AL</p> <p>OR</p> <p>Periodic monitoring every 6 months</p> <p>OR</p> <p>Performance option</p> <p>OR</p> <p>Follow Table 1 (for construction)</p>	<p>Initial assessment if employees reasonably expected to be exposed ≤AL</p> <p>OR</p> <p>Periodic monitoring every 3 months</p> <p>OR</p> <p>Performance option</p> <p>OR</p> <p>Follow Table 1 (for construction)</p>
<b>(e) Regulated areas and access control</b>	None	None	<p>Establish and implement regulated areas</p> <p>OR</p> <p>Establish and implement written access control plan</p>

## Employer Obligations by Exposure Level (cont.)

Provision	Exposure Level		
	$\leq$ AL	$\geq$ AL but $\leq$ PEL	$>$ PEL
<b>(f) Methods of compliance</b>	None	None	Use engineering and work practice controls where feasible OR Follow Table 1 (for construction)
<b>(g) Respiratory protection</b>	None	None	Provide respiratory protection to workers when exposures $>$ PEL OR Follow Table 1 (for construction)

## Employer Obligations by Exposure Level (cont.)

Provision	Exposure Level		
	≤AL	≥AL but ≤PEL	>PEL
<b>(h) Medical surveillance</b>	None	None	Provide initial exam within 30 days of assignment  Provide periodic exams every three years
<b>(i) Hazard communication</b>	Provide information and training	Provide information and training	Provide information and training
<b>(j) Recordkeeping</b>	Maintain exposure assessment records	Maintain exposure assessment records	Maintain exposure assessment and medical records

# Changes to Proposed Rule based on Small Business Input

- Specific hygiene provisions removed (e.g., change rooms, shower facilities, lunchrooms).
- Prohibition of compressed air, brushing, and dry sweeping only when PEL can be exceeded.
- Access control plan permitted in lieu of regulated areas.
- Limited competent person requirement to access control plan use.



# Changes to Proposed Rule based on Small Business Input (cont.)

- Both fixed and performance option for exposure determination
- Initial medical surveillance can be offered within 30 days instead of pre-placement.
- Specific methods for laboratory analysis included
- Table 1 limits respirator use for tasks performed <4 hours/day

# Consistency with Consensus Standards

- Industry has recognized the need for comprehensive standards addressing the hazards of crystalline silica.
- Voluntary consensus standards have been adopted for general industry (ASTM E 1132 – 06) and construction (ASTM E 2626 – 09).
- These voluntary standards include provisions for exposure measurement, use of dust controls, respiratory protection, medical surveillance, and training.





# California Rule for Silica

- Cal/OSHA silica rule for construction - effective October 22, 2008.
- Concerns the cutting, grinding, coring and drilling of concrete and masonry materials.
- Requires the use of water or local exhaust dust controls to reduce dust generated by cutting, grinding, coring and drilling concrete and masonry materials when performed with powered tools or equipment.

# Estimates of Those Affected by Proposed Rule

- 2.2 million workers
  - Total of 1.85 million in construction and 320,000 in GI and maritime
  - **1.3 million in small establishments**
  - **580,000 in very small establishments**
- 534,000 establishments
  - Total 477,000 in construction and 57,000 in GI and maritime
  - **470,000 small establishments**
  - **356,000 very small establishments**



# Monetized Benefits and Costs Per Year

- **Costs: \$ 663 million annually**
  - Construction – \$495 million
  - General industry – \$168 million
- **Net Benefits: \$2.8 to \$4.7 billion annually over the next 60 years**

# Annualized Compliance Costs in GI, Maritime, and Construction (2009 dollars)

Industry	Engineering Controls (includes Abrasive Blasting)	Respirators	Exposure Assessment	Medical Surveillance	Training	Regulated Areas or Access Control	Total
General Industry	\$88,442,480	\$6,914,225	\$29,197,633	\$2,410,253	\$2,952,035	\$2,580,728	\$132,497,353
Maritime	\$12,797,027	N/A	\$671,175	\$646,824	\$43,865	\$70,352	\$14,229,242
Construction	\$242,579,193	\$84,004,516	\$44,552,948	\$76,012,451	\$47,270,844	\$16,745,663	\$511,165,616
Total	\$343,818,700	\$90,918,741	\$74,421,757	\$79,069,527	\$50,266,744	\$19,396,743	\$657,892,211

# Annualized Compliance Costs in GI, Maritime, and Construction (Percentages by Sector and Provision)

Industry	Engineering Controls (includes Abrasive Blasting)	Respirators	Exposure Assessment	Medical Surveillance	Training	Regulated Areas or Access Control	Total
General Industry/ Maritime	69%	5%	20%	2%	2%	2%	100%
Construction	47%	16%	9%	15%	9%	3	100%
Total	52%	14%	11%	12%	8%	3%	100%

# Average Annualized Compliance Costs per Affected Establishment (2009 dollars)

Industry	All Establishments	SBA Small Entities	Very Small Entities (< 20 Employees)
General Industry/ Maritime	\$2,571	\$2,103	\$616
Construction	\$1,022	\$798	\$533
All	\$1,185	\$912	\$539

# Cost Revisions Based on Small Business Input (Analytic Modifications)

- Unit Costs Disaggregated by Firm Size
  - Training
  - Exposure Monitoring
  - Medical Surveillance
- Current Compliance Rates Adjusted
  - Training (56% to 25%)
  - Exposure Monitoring (33% to 0%)
  - X-Rays (35% to 0%)
- Other
  - Adjusted Costs to Reflect Rule Changes
  - Updated Unit Cost Estimates

# Updates to Respirator Costs based on Small Business Input

- Updated costs associated with respirators
  - The respirator itself
  - Accessories (e.g., filters)
  - Training
  - Fit testing
  - Cleaning
- Added costs for respirator program



# Expanded Economic and Feasibility Analyses Based on Small Business Input

- Added data on normal year-to-year variations in prices and profit rates
- Estimated potential international trade impacts

# Employment Effects Analysis

## ➤ Background

- Analysis conducted by Inforum, a well-recognized macroeconomics modeling firm
- Costs of OSHA rule by type of cost and by industry fed into model; model run for 10-year period, from 2014-2023
- Inforum ran model twice: once without OSHA costs (to establish baseline) and once with silica rule costs included; the difference determined the employment impacts



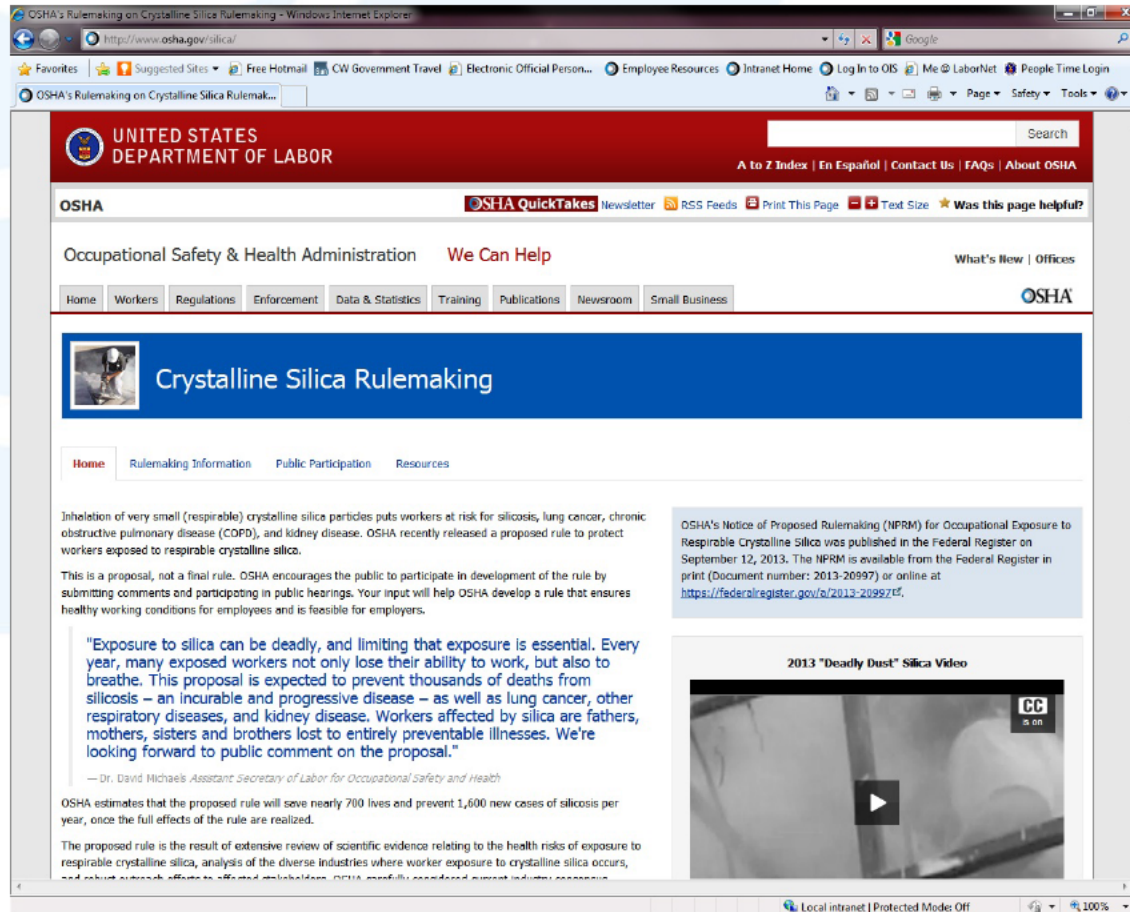
# Employment Effects Analysis

## ➤ Results

- Negligible impact on employment, but positive (about 860 “job-years” gained per year, on average, over the 10-year period)
- Results vary by year
- Results vary by industry (positive in construction; negative in general industry)
- But negligible in all cases, from a macroeconomics perspective

# Silica Web Page

## <http://www.osha.gov/silica>



The screenshot shows a web browser window displaying the OSHA website. The browser's address bar shows the URL <http://www.osha.gov/silica>. The page header features the United States Department of Labor logo and the text "UNITED STATES DEPARTMENT OF LABOR". Below this, the OSHA logo is displayed, along with navigation links for "A to Z Index", "En Español", "Contact Us", "FAQs", and "About OSHA". The main navigation menu includes "Home", "Workers", "Regulations", "Enforcement", "Data & Statistics", "Training", "Publications", "Newsroom", and "Small Business". The page title is "Crystalline Silica Rulemaking". The content area includes a section titled "OSHA's Notice of Proposed Rulemaking (NPRM) for Occupational Exposure to Respirable Crystalline Silica" and a video player for the "2013 'Deadly Dust' Silica Video".

OSHA's Rulemaking on Crystalline Silica Rulemaking - Windows Internet Explorer

<http://www.osha.gov/silica>

UNITED STATES DEPARTMENT OF LABOR

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### Crystalline Silica Rulemaking

Home Rulemaking Information Public Participation Resources

Inhalation of very small (respirable) crystalline silica particles puts workers at risk for silicosis, lung cancer, chronic obstructive pulmonary disease (COPD), and kidney disease. OSHA recently released a proposed rule to protect workers exposed to respirable crystalline silica.

This is a proposal, not a final rule. OSHA encourages the public to participate in development of the rule by submitting comments and participating in public hearings. Your input will help OSHA develop a rule that ensures healthy working conditions for employees and is feasible for employers.

"Exposure to silica can be deadly, and limiting that exposure is essential. Every year, many exposed workers not only lose their ability to work, but also to breathe. This proposal is expected to prevent thousands of deaths from silicosis – an incurable and progressive disease – as well as lung cancer, other respiratory diseases, and kidney disease. Workers affected by silica are fathers, mothers, sisters and brothers lost to entirely preventable illnesses. We're looking forward to public comment on the proposal."

— Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health

OSHA estimates that the proposed rule will save nearly 700 lives and prevent 1,600 new cases of silicosis per year, once the full effects of the rule are realized.

The proposed rule is the result of extensive review of scientific evidence relating to the health risks of exposure to respirable crystalline silica, analysis of the diverse industries where worker exposure to crystalline silica occurs, and robust outreach efforts to affected stakeholders. OSHA carefully considered current industry consensus

OSHA's Notice of Proposed Rulemaking (NPRM) for Occupational Exposure to Respirable Crystalline Silica was published in the Federal Register on September 12, 2013. The NPRM is available from the Federal Register in print (Document number: 2013-20997) or online at <https://federalregister.gov/a/2013-20997>.

2013 "Deadly Dust" Silica Video

Local intranet | Protected Mode: Off



**Risk Assessment of Low back Disorders at Supervalu Holdings Inc.  
Food Distribution Warehouses, Hazelwood, Missouri**

**Rule 26 DRAFT REPORT**

**Prepared for:**

Occupational Safety and Health Administration (OSHA)

**Prepared by:**

Fadi Fathallah, PhD, AEP

**Date:** November 2, 2004, Davis, California

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## GLOSSARY

**Electrogoniometer:** A goniometer that uses electronics to capture the angles of a given body joint.

**External Moment:** The product of the weight handled times the distance from the center of the

**Horizontal Distance:** Distance (in meters) between the center of the object handled and the lower back (L5/S1 joint).

**Goniometer:** A device that measures angles of a given body joint (gonio=angle, meter=measurement).

**L5/S1 Joint:** The joint defined by the intersection of the fifth lumbar spinal vertebra and first sacral vertebra- commonly referred to as the “lumbosacral” joint

**Lateral Trunk Motion:** Side-to-Side motion of the back

**Lateral Trunk Velocity:** The speed at which the back was moving in the side-to-side direction

**Low Back Disorders:** Disorders related to the lower back

**Lumbar Motion Monitor (LMM):** An electromechanical device (electrogoniometer) that captures worker’s back motion in all three directions: forward/backward (or sagittal motion), side-to-side (or lateral motion), and twisting (or transverse motion)

**Ohio State University Risk Model:** A risk model that uses the LMM and other factors to provide a probability for a given job to belong to a high-risk group for developing low back disorders.

**Order Selector:** A worker who’s main job is to load a customer “order” onto a pallet.

**Pallet:** A wooden or plastic platform on which items (usually boxes) are placed/stacked for storage or shipping purpose. Forklifts and hand trucks are commonly used to move these stacked platforms around.

**Sagittal Trunk Flexion Position:** Forward position of the back

**Sagittal Trunk Motion:** Forward/backward motion of the back

**Twisting Trunk Motion:** Rotating motion of the back

**Twisting Trunk Velocity:** The speed at which the back was twisting load to the lower back L5/S1 lumbosacral joint. Units are in Newtons (weight) meters (distance).

## INTRODUCTION

On June 3-5, 2004, I and two of my doctoral graduate students, David Reiter and Victor Duraj from the University of California, Davis, Occupational Biomechanics Laboratory, along with a team from the University of Wisconsin, Milwaukee, lead by Dr. Arun Garg, and several representative from OSHA conducted a risk assessment evaluation at the Supervalu warehouse distribution center in Hazelwood, MO. My curriculum vita and those of my two students who had assisted in this effort, Mr. David Reiter and Victor Duraj, are included at the end of this report. The distribution center is divided into two separate buildings and operations/departments: 1) A Perishable department, and 2) a Dry Grocery department. Within the Perishable facility, there are four main warehousing areas: 1) Freezer, 2) Meat, 3) Dairy, and 4) Produce. The objective of this report is to provide a risk assessment of Low back Disorders (LBDs) for the "Order Selector" job within each of the five aforementioned warehousing areas (Freezer, Meat, Dairy, Produce, and Dry Grocery).

### ***Low Back Disorder Risk Model***

There is compelling evidence that low-back disorders are associated with work-related lifting and forceful movements, heavy physical work, and awkward postures (Bernard, 1997; National Research Council, 2001). The Ohio State University Low Back Disorder Risk Model (LBD Risk Model) developed by (Marras et al., 1993) was used to assess the risk of low back disorders (LBDs) in each of the five identified warehousing areas. The LBD Risk Model evaluates the "probability of high-risk group membership" (LBD Risk) for a given job. The variables necessary to compute the LBD Risk include 1) lift rate (lifts/hours), 2) maximum sagittal trunk bending position, 3) maximum external moment (weight of load multiplied by horizontal distance between the load and the lumbosacral joint), 4) average trunk twisting velocity, and 5) maximum lateral trunk velocity. The "probability of high-risk group membership" value indicates the probability that the job in question (containing the magnitudes of the five variables from the tasks monitored) is similar to a group of manual material handling jobs that previously exhibited a high incidence of low back injuries monitored by Marras et al. (1993) (incidence rate  $\geq$  12.0 injuries/100 persons/year, with a mean of 26.3 injuries/100 persons/year). This model resulted in an odds ratio of 10.7, which indicates that when measuring the variables in the model, it was 10.7 times more likely than chance to correctly classify the job as high-risk for LBD.

The LBD Risk Model has been used and referred to by other groups in the scientific community (Bernard,



1997; Elford et al., 2000; Lavender et al., 2000; National Research Council, 2001). Validation efforts of the LBD Risk Model also have been reported (Marras et al. 2000). The jobs reported in Marras et al. (1993) with probability values above 70% were all high-risk jobs, and 94% of the jobs with probability values between 61% and 70% were high-risk jobs. Furthermore, 70% of the jobs with probability values between 51% and 60% were high-risk jobs (Marras et al., 1999). Thus, of all jobs having probability values greater than 60%, only 3% were low-risk jobs, indicating a very high level of confidence that jobs with probability values above 60% would be considered high-risk for LBD.

## METHODS

### *Data Collection Procedure*

In order to be able to evaluate a large number of Order Selectors within the allotted period, the evaluation team was divided into two data collection teams: One team consisted of my self, one of my students, Victor Duraj, one of Dr. Garg students', and a videographer from OSHA. The other team consisted of Dr. Arun Grag, his second student, my second student, David Reiter, and a videographer from OSHA.

Twenty-three male Order Selectors were monitored during this assessment. Table 1 depicts the breakdown of these 23 Order Selectors in terms of departments and data collection teams.

Table 1. Breakdown of the twenty-three Order Selectors within departments and collection teams.

<b>Department</b>	<b>Team 1</b>	<b>Team 2</b>	<b>Total</b>
Grocery	3	3	6
Produce	3	2	5
Meat	2	2	4
Dairy	2	1	3
Frozen	3	2	5
<b>All Departments</b>	<b>13</b>	<b>10</b>	<b>23</b>

Each Order Selector who volunteered to participate in this evaluation was fitted with a device, the Lumbar Motion Monitor (LMM) (Chattecx Corp., Hixson, TN; Figure 1), to capture the motion of his back while handling an assigned order. The LMM is a tri-axial (three-direction)

electrogoniometer that acts as a lightweight exoskeleton of the lumbar spine. It attaches to individuals' backs, directly in line with their spines, via harnesses at the pelvis and thorax. The LMM measures the instantaneous angular position, velocity (speed), and acceleration of the trunk. The device provides the three trunk motion variables necessary for input into the LBD Risk Model. Start and finish heights of each lift as well as the moment arm (distance between the center of the load and the Order Selector's lower back) were collected using a tape measure. Item weights were obtained from the company's "audit trails" for the order selectors whom we monitored, and from the company's historical average weight data. Video records also were obtained during the data collection.









**Figure 1.** The Lumbar Motion Monitor (LMM)

### ***Data Analysis***

The LBD risk (probability of high-risk group membership) was determined in similar fashion as described by Marras et al. (1993), and was assessed for each of the twenty-three employees. The average LBD risk of the employees within a given department represented the LBD risk for that department. Again, the five variables which went into the risk model included the three motion variables obtained from the LMM (maximum sagittal flexion, maximum lateral velocity, and average twisting velocity), the measured maximum external moment (product of the object

weight times the distance from the back), and the lift rate (number of lifts per hour) determined for each department from supplied company data.

Due to the expected variability in the height at which the objects were either lifted from (origin) or placed at (destination), the variability in the object weights, and the variability in the object horizontal location (distance between the object and the lower back), further analyses were conducted. Firstly, for each Order Selector, the heights at origin of the lift (the storage racks) and the heights at the destination (the order pallet) were each divided into three height ranges: 1) low (< 30 inches), medium (30-50 inches), and high (> 50 inches) (Waters et al., 1998). Please see Figure 2 for a pictorial depiction of the classification. Note that for each object the Order Selector handles, that lift is expected to fall within one of *nine* combinations of origin/destination ranges, starting with (High Origin)/(High Destination), and ending with (Low Origin)/(Low Destination). For example if an Order Selector lifted a box which was at 18 inches high in the storage rack, and stacked it into the order pallet at a level that was 37 inches high, this lift would be classified as a (Low Origin)/(Medium Destination) lift (pictures **5** and **4** in Figure 2). Therefore, in order to reflect this new height range classification, the LBD risk model also was calculated for each Order Selector within each height combination. Secondly, in order to account for the variability in the weight and horizontal location of the object (e.g., close or deep into the storage rack), these analyses were repeated using average weight by department and average moment arm (reach distance between the object and the lower back) by Order Selector.

Height Range	Origin/Racks	Destination/Pallets
<p style="text-align: center;"><b>High</b> <b>&gt; 50 in</b></p>	<p style="text-align: center;">1</p> 	<p style="text-align: center;">2</p> 
<p style="text-align: center;"><b>Medium</b> <b>30-50 in</b></p>	<p style="text-align: center;">3</p> 	<p style="text-align: center;">4</p> 
<p style="text-align: center;"><b>Low</b> <b>&lt; 30 in</b></p>	<p style="text-align: center;">5</p> 	<p style="text-align: center;">6</p> 

**Figure 2.** Pictures depicting the classification of the lift origin and destination into “low”, “medium”, and “high” height ranges.

## RESULTS

### ***Overall LBD Risk by Department***

The overall LBD risk (in %) is shown for each department in Table 2. Note that these percentages are determined from the average over the corresponding number of Order Selectors within each department. The LBD risk was lowest for the Freezer department (at 82.6%) and highest for the Grocery and Produce departments (both at 94.6%).

**Table 2.** LBD risk by department. N= number of order selectors.

<b>Department</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Grocery (N=6)	94.6	4.5
Produce (N=5)	94.6	2.6
Meat (N=4)	93.5	7.4
Dairy (N=3)	92.3	2.1
Frozen (N=5)	82.6	11.6
<b>All Departments</b>	<b>91.1</b>	<b>7.9</b>

### ***Overall LBD Risk by Department-Accounting for Height Ranges***

The overall LBD risk (in %) while accounting for the nine combinations of height ranges is shown for each department in Table 3. In other words, within a given department, for each Order Selector a risk was determined within each of the nine height range combinations (e.g., Low Origin/Medium Destination), first. Then, the overall LBD risk is the average over the entire Selector/Height Range LBD risk percentages, for a maximum of Number of selectors times 9 Height Range combinations (e.g., a maximum of 45 percentages can be generated for the Produce and Frozen departments; 5 selectors by 9 Height Range combinations). Table 3 also depicts the overall LBD risk using *average* weights and *average* horizontal locations (right two columns of Table 3). The LBD risk was lowest for the Freezer department (at 58.6%), and highest for the Grocery department (at 78.5%).

**Table 3.** LBD risk by department, while accounting for differences in origin/destination height ranges. N= Number of selectors times number of height range combinations

Department	Using <i>Observed</i> Weights and Horizontal Distances		Using <i>Average</i> Weights and Horizontal Distances	
	LBD Risk (%)	Standard Deviation	LBD Risk (%)	Standard Deviation
Grocery (N=49)	78.5	19.4	61.2	17.4
Produce (N=44)	72.7	22.1	62.2	13.7
Meat (N=34)	70.3	23.4	58.8	11.0
Dairy (N=27)	66.9	24.7	56.7	16.4
Frozen (N=42)	58.6	21.7	47.1	17.3
<b>All Departments</b>	<b>70.0</b>	<b>22.9</b>	<b>57.4</b>	<b>16.3</b>

### ***LBD Risk by Height Range Combinations***

In order to see the general effects of start and finish heights at the origin and destination of the lift, Table 4 provides the LBD risk (in %) for each of the nine Origin/Destination height range combinations over all departments. In other words, within a given height range combination, LBD risk was averaged over the Order Selectors who performed this combination regardless of the department (hence a maximum of 23 LBD risk percentages within each height range combination). Table 4 also depicts the LBD risk within each height range combination using *average* weights and *average* horizontal locations (right two columns of Table 4). In general, the LBD risk was lowest for situations where the height at both the origin (storage rack) and destination (order pallet) were in either the high or medium height range (the lowest LBD risk was 43.1% at the High/High combination). Whereas, the highest LBD risk was observed whenever there was a low height range included in the lift, with the Low/Low combination (below 30 inches) exhibiting the highest LBD risk (at 81.6%).

**Table 4.** LBD risk within each of the nine origin/destination height range combinations. N = Number of selectors times the number of height range combinations.

<b>Height Range Combination (Origin/Destination)</b>	<b>Using <i>Observed</i> Weights and Horizontal Distances</b>		<b>Using <i>Average</i> Weights and Horizontal Distances</b>	
	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Low/Low (N=22)	81.6	11.9	65.7	12.7
Low/Medium (N=22)	80.3	17.3	64.7	12.4
Low/High (N=21)	69.8	17.8	65.8	14.8
Medium/Low (N=23)	82.4	14.1	64.1	13.2
Medium/Medium (N=23)	72.6	18.8	53.4	14.5
Medium/High (N=20)	54.6	25.9	49.4	17.4
High/Low (N=23)	77.6	17.9	62.8	11.1
High/Medium (N=22)	62.2	24.7	48.3	15.3
High/High (N=20)	43.1	23.7	39.7	13.9
<b>All Combinations</b>	<b>70.0</b>	<b>22.9</b>	<b>57.4</b>	<b>16.3</b>

In order to further explore the effect of height range combinations, the LBD risk was determined for each of nine combinations within each of the five departments (Tables 5-9).

**Table 5.** LBD risk for each of the nine origin/destination height range combinations in the **Grocery** department. N= Number of Order Selectors.

<b>Height Range Combination (Origin/Destination)</b>	<b>Using <i>Observed</i> Weights and Horizontal Distances</b>		<b>Using <i>Average</i> Weights and Horizontal Distances</b>	
	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Low/Low (N=6)	85.4	10.9	67.7	14.7
Low/Medium (N=6)	77.7	22.9	61.7	18.6
Low/High (N=5)	81.5	15.1	70.5	15.6
Medium/Low (N=6)	86.5	13.1	69.8	11.9
Medium/Medium (N=6)	81.2	16.4	57.1	18.0
Medium/High (N=5)	82.2	9.7	58.9	9.1
High/Low (N=6)	83.2	11.8	64.6	15.7
High/Medium (N=5)	70.0	28.6	53.2	22.5
High/High (N=4)	48.1	27.7	39.7	21.1
<b>All Combinations</b>	<b>77.3</b>	<b>17.4</b>	<b>60.3</b>	<b>16.4</b>

**Table 6.** LBD risk for each of the nine origin/destination height range combinations in the **Produce** department. N= Number of Order Selectors.

<b>Height Range Combination (Origin/Destination)</b>	<b>Using <i>Observed</i> Weights and Horizontal Distances</b>		<b>Using <i>Average</i> Weights and Horizontal Distances</b>	
	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Low/Low (N=5)	86.0	10.2	70.5	4.1
Low/Medium (N=5)	80.0	25.0	64.6	16.1
Low/High (N=5)	70.4	15.3	70.0	10.2
Medium/Low (N=5)	90.0	7.7	69.3	9.1
Medium/Medium (N=5)	69.3	21.3	58.7	12.7
Medium/High (N=4)	57.8	21.1	58.2	13.0
High/Low (N=5)	78.4	22.5	66.6	10.7
High/Medium (N=5)	71.0	21.3	56.2	12.3
High/High (N=5)	48.2	28.2	45.1	17.5
<b>All Combinations</b>	<b>72.4</b>	<b>19.2</b>	<b>62.1</b>	<b>11.8</b>



**Table 7.** LBD risk for each of the nine origin/destination height range combinations in the **Meat** department. N= Number of Order Selectors.

<b>Height Range Combination (Origin/Destination)</b>	<b>Using Observed Weights and Horizontal Distances</b>		<b>Using Average Weights and Horizontal Distances</b>	
	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Low/Low (N=3)	85.7	9.0	69.1	5.2
Low/Medium (N=3)	78.8	12.3	71.8	3.8
Low/High (N=4)	74.7	4.8	69.6	5.5
Medium/Low (N=4)	88.4	7.6	61.8	7.0
Medium/Medium (N=4)	75.6	17.2	59.3	7.0
Medium/High (N=4)	49.6	22.0	47.7	13.3
High/Low (N=4)	72.8	27.1	59.1	7.7
High/Medium (N=4)	64.7	33.8	50.7	3.0
High/High (N=4)	48.6	33.2	45.6	2.1
<b>All Combinations</b>	<b>71.0</b>	<b>18.5</b>	<b>59.4</b>	<b>6.1</b>

**Table 8.** LBD risk for each of the nine origin/destination height range combinations in the **Dairy** department. N= Number of Order Selectors.

<b>Height Range Combination (Origin/Destination)</b>	<b>Using Observed Weights and Horizontal Distances</b>		<b>Using Average Weights and Horizontal Distances</b>	
	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>	<b>LBD Risk (%)</b>	<b>Standard Deviation</b>
Low/Low (N=3)	87.0	3.4	68.0	3.9
Low/Medium (N=3)	84.6	6.7	69.1	4.1
Low/High (N=3)	54.8	19.1	61.9	13.6
Medium/Low (N=3)	85.1	6.3	68.1	13.3
Medium/Medium (N=3)	79.8	10.9	54.4	7.1
Medium/High (N=3)	37.6	29.6	47.1	31.1
High/Low (N=3)	84.4	9.1	64.0	9.8
High/Medium (N=3)	59.0	17.5	42.6	3.2
High/High (N=3)	29.6	12.1	35.5	10.9
<b>All Combinations</b>	<b>66.9</b>	<b>12.7</b>	<b>56.7</b>	<b>10.8</b>

**Table 9.** LBD risk for each of the nine origin/destination height range combinations in the **Frozen** department. N= Number of Order Selectors.

Height Range Combination (Origin/Destination)	Using <i>Observed</i> Weights and Horizontal Distances		Using <i>Average</i> Weights and Horizontal Distances	
	LBD Risk (%)	Standard Deviation	LBD Risk (%)	Standard Deviation
Low/Low (N=5)	67.1	10.1	54.9	18.4
Low/Medium (N=5)	82.0	12.4	61.4	4.6
Low/High (N=4)	60.8	25.2	53.6	23.4
Medium/Low (N=5)	63.6	13.4	51.5	16.6
Medium/Medium (N=5)	58.9	21.4	38.5	12.7
Medium/High (N=4)	34.8	21.5	32.2	12.8
High/Low (N=5)	69.8	17.8	59.3	10.6
High/Medium (N=5)	45.6	20.1	37.3	16.3
High/High (N=4)	36.1	12.8	30.0	7.3
<b>All Combinations</b>	<b>57.6</b>	<b>17.2</b>	<b>46.5</b>	<b>13.6</b>

For each of the five departments, again, the LBD risk was consistently higher for lifts that were considered “low height” (< 30 inches), at either the origin (storage rack) or destination (order pallet). Overall, the average LBD risk was 78.3% for lifts that had at least one part of the lift at the low height, as compared to 58.7% for lifts that did not require the worker to handle objects below 30 inches (i.e., lifts that had either medium and/or high heights at both origin and destination) (Table 5). Again, the grocery and produce departments exhibited the highest LBD risks followed by meat, dairy, and frozen.

## CONCLUSIONS AND OPINIONS

This evaluation of the LBD risk clearly demonstrates that the Order Selector job in this Supervalu warehouse distribution center places the employees at serious risk of injury to the lower back. In general, the Produce and Grocery departments exhibited the highest LBD risk. After accounting for variability in heights at the storage racks and the order pallets, the average overall LBD risk for the Grocery and Produce departments was clearly above 70%. Even when

using conservative estimates (averages) of weights and distances, the overall average LBD risk for these two departments was above 60% (Table 3). Note that, as mentioned earlier, almost all the jobs reported by Marras et al. (1993) with higher than 60% LBD risk were high-risk jobs (jobs with high rates of reported LBDs) . This clearly confirms that the back injuries reported at the facilities assessed in this report are work-related.

When further analysis was conducted that accounted for variability in racks and pallets heights, it was found that, across all departments, when workers handled objects at heights below 30 inches, the LBD risk was very high (average 79%). This was especially evident for the Grocery and Produce departments, averaging 83% and 81%, respectively. The Meat and Dairy departments showed LBD risk percentages at 80% and 79%, respectively, with the Frozen department averaged 69% for these low heights. When using the conservative estimates of weights and distances were used, the LBD risk percentage averaged 65% over all departments (56% for the Frozen department, and at or greater than 66% for the remaining four departments). On the other hand, lifts that were performed at heights greater than 30 inches, the LBD risk was maintained at consistently lower values than those performed at greater than 30 inches (average 48% for the conservative estimate).

As expected, the lowest LBD risk occurred for lifts that were performed at heights that were above 50 inches for both the origin (storage racks) and destination (order pallets) (average LBD risk across departments at 43%). However, these types of lifts are expected to place workers at increased risk of shoulder disorders, since objects would commonly have to be handled at or above shoulder height (see Figure 2 for examples).

In conclusion, the Order Selector jobs in all five warehousing areas monitored contain workplace hazards consistent with jobs previously shown to be high-risk for low back disorders. Of special concern were tasks that required workers to handle objects from surfaces that were less than 30 inches high.

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- Elford, W., Straker, L. and Strauss, G. (2000). Patient handling with and without slings: an analysis of the risk of injury to the lumbar spine. *Appl Ergon*, 31(2), 185-200.
- Lavender, S. A., Conrad, K. M., Reichelt, P. A., Johnson, P. W. and Meyer, F. T. (2000). Biomechanical analyses of paramedics simulating frequently performed strenuous work tasks. *Applied Ergonomics*, 31(2), 167-77.
- Marras, W. S., Allread, W. G. and Ried, R. G. (1999). Occupational low back disorder risk assessment using the lumbar motion monitor. *The Occupational Ergonomics Handbook*. W. Karwowski and W. S. Marras. New York, CRC Press: 1075-1100.
- Marras, W. S., Lavender, S. A., Leurgans, S. E., Rajulu, S. L., Allread, W. G., Fathallah, F. A. and Ferguson, S. A. (1993). The role of dynamic three-dimensional trunk motion in occupationally-related low back disorders: The effect of workplace factors, trunk position, and trunk motion characteristics on risk of injury. *Spine*, 18(5), 617-628.
- National Research Council (2001). *Musculoskeletal disorders and the workplace : low back and upper extremities / Panel on Musculoskeletal Disorders and the Workplace, Commission on Behavioral and Social Sciences and Education, National Research Council and Institute of Medicine*. Washington, DC, National Academy Press.
- Waters, T. R., Putz-Anderson, V. and Baron, S. (1998). Methods for assessing the physical demands of manual lifting: A review and case study from warehousing. *American Industrial Hygiene Association Journal*, 59(12), 871-881.

**Listing of Cases in Which Witness Testified as an Expert at  
Trial or by Deposition in the Preceding Four Years**

<b>Case</b>	<b>Type</b>	<b>Date</b>
Tim Bernal Vs. Union Pacific	Deposition	12/14/00
Ray Pulido Vs. Union Pacific	Deposition	09/13/00
Tim Bernal Vs. Union Pacific	Court Testimony	11/26/02
Dan Gonzalez Vs. Union Pacific	Deposition	8/5/03
Antonio Chavez Vs. Union Pacific	Deposition	8/6/03
Frank Sanchez Vs. Union Pacific	Deposition	9/2/03
Antonio Chavez Vs. Union Pacific	Court Testimony	7/27/2004

## **Compensation to be Paid for the Study and Testimony**

## Curriculum Vita- Fadi A. Fathallah

### Office Address

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Biological and Agricultural Engineering  
One Shields Ave  
Davis, CA 95616  
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### Home Address

2325 Isle Royale Lane  
Davis, CA 95616  
TL/Fax: (530) 753-7777

### Education

**Ph.D.** - September 1995, The Ohio State University, Columbus, Ohio

*Major:* Industrial and Systems Engineering

*Specialization:* Industrial Ergonomics/Occupational Biomechanics

*Advisor:* Dr. William S. Marras

*Dissertation:* Coupled Spine Motions, Spine Loading and Risk of Occupationally-Related Low Back Disorders

*Minors:* Operations Research; Quantitative Psychology (Statistics)

**M.S.** - December 1988; Virginia Tech, Blacksburg, Virginia

*Major:* Industrial Engineering and Operations Research

*Specialization:* Human Factors Engineering

*Advisor:* Dr. Karl H. E. Kroemer

*Thesis:* An Experimental Comparison of QWERTY Keyboard with a Ternary Chord keyboard

**B.S. (*Cum Laude*)** - May 1986; Texas Tech University, Lubbock, Texas

*Major:* Industrial Engineering

### Honors and Affiliations

Distinguished Service Award, 2000- From the University of California Division of Agriculture and Natural Resources. In Recognition of Exemplary Service to the People of California for Outstanding and Creative Teamwork: UC Agricultural Ergonomics Research Center

Best Student Paper Award, 2003, with student Jessica Paskiewicz, Human Factors and Ergonomics Society, Industrial Ergonomics Technical Group

Associate Ergonomics Professional (Board of Certified Professional Ergonomists)

Full member of the Human Factors and Ergonomics Society, the Ergonomics Society (UK), the American Society of Biomechanics, Institute of Industrial Engineers, and the American Society of Agricultural Engineers

Member of Alpha Pi Mu (Industrial Engineering Honors Society), Tau Beta Pi (Engineering Honors Society), and Golden Key National Honors Society

Dean's List (Texas Tech); National Dean's List, 1984-1986

## Research, Teaching, and Industrial Experience

### Associate Professor Step I with Tenure

**Department of Biological and Agricultural Engineering, and the Biomedical Engineering and Exercise Science Graduate Groups, University of California, Davis- July 2003- present**  
**Director, Occupational Biomechanics Laboratory**

*10/1999 – 06/2001- Assistant professor Step III; 07/2001- 06/2002, Assistant Professor Step IV. 07/2002- 06/2003, Assistant Professor Step V*

Directing the Occupational Biomechanics Laboratory within the Agricultural Ergonomics Research Center at UC Davis. The laboratory's main emphasis is on musculoskeletal disorders of the lower back and upper extremities in agricultural and industrial environments. Directing several federally-funded projects, including: Assessing the effect of vineyard trellis systems design on the health and safety of agricultural workers; and evaluating the risk of injuries to children when operating agricultural tractors. Teaching upper-division and graduate classes in occupational biomechanics and ergonomics at UC Davis and UC Berkeley. Faculty member of the Center for Occupational and Environmental Health (NIOSH ERC), UC Berkeley, Davis, and San Francisco, and the NIOSH supported Western Center for Agricultural Health and Safety, UC Davis.

#### **UC Davis Teaching:**

*Biological Systems Engineering (EBS) 128- Occupational Biomechanics and Ergonomics- Spring 2000-2003, 70 undergraduate and 13 graduate students- Average Overall Instructor Rating: 4.7/5.0 (1=poor, 5=excellent), Average Overall Class Rating: 4.6/5.0*

*EBS 228- Occupational Musculoskeletal Disorders-*

*Spring 2001-2003, 14 graduate students- Average Overall Instructor Rating: 4.8/5.0 (1=poor, 5=excellent), Average Overall Class Rating: 4.5/5.0*

**UC Berkeley Teaching:** *Public Health 269C- Ergonomics- Spring 2000-2004, one-week lectures on industrial manual materials handling related problems and solutions.*

### **Senior Research Associate, Liberty Mutual Research Center for Safety and Health, Hopkinton, MA- 9/1995 – 9/1999:**

Led a research program investigating three-dimensional spinal motions and loading during manual material handling tasks. Principal investigator on several research projects, including: 1) assessing impact forces sustained during truck exit, 2) biomechanical factors of lifting belts and 3) trunk kinematic evaluation of low back patients. Collaborated with University of Aberdeen, Scotland, on a large ongoing multi-country epidemiological study investigating the role of whole body vibration in occupational low back pain. Member of a research team from Texas Tech University and Liberty Mutual Research Center conducting a large National Institute for Occupational Safety and Health (NIOSH)-funded prospective epidemiological study investigating the association between the revised 1991 NIOSH lifting equation and low back injuries.

### **Lecturer, Harvard University School of Public Health Ergonomics Short Courses:**

*September 15-19, 1997; September 14-17, 1998; August 30- September 2, 1999:*

***Industrial Ergonomics: Human Factors in Occupational Health and Safety.***

*April 17-18, 1997: Ergonomic Guidelines for Computer Use.*



**Research Associate, Biodynamics Laboratory (Ohio State University):**

9/1989 - 9/1995:

**Industrial Surveillance Project:**

Involved in an epidemiological study investigating the role of motion and workplace factors in occupation-related low back disorders. Gathered quantitative data on more than 400 manual materials handling jobs from over 70 industrial companies around the Midwestern States (1989-1992). Led the data collection team of an on-going prospective validation study addressing the efficacy of the Ohio State University low back disorders risk model in identifying and reducing back-related industrial injuries. Gathered quantitative data on more than 130 industrial jobs (1992-1995).

**Other Research Projects:**

Gathered data on the role of trunk musculature under twisting and lateral torque exertions and the corresponding spinal loading patterns. Quantitatively assessed trunk mobility (flexibility) throughout the day. Investigated the role time of the day in altering biomechanical responses in an automotive plant. Investigated the relationship between hand/wrist flexor/extensor EMG activities and carpal contact forces. Assessed low back disorders risk of about 30 grocery stores checkers (actual grocery scanning operations).

**Teaching Assistant, Work Physiology and Biomechanics (Ohio State University):**

9/1989 - 12/1989:

Conducted laboratory sessions in Anthropometry, Electromyography, Fatigue, and other related topics. Prepared and corrected exams and individual lab reports of a 45-student class. Lectured occasionally. Excellent teacher's evaluation.

**Research Assistant, Industrial Ergonomics Laboratory (Virginia Tech)**

12/1986 - 7/1989:

**Ternary Chord Keyboard Research:**

Conducted several experiments investigating the ergonomic implications of an alternate data entry device (ternary chord keyboard). Responsibilities included developing basic interface software, assessing keyboard designs, developing chording schemes, and monitoring user's learning and typing performance.

**Hand/Finger Strength assessment:**

Developed a database of finger and hand strength under various pinch and grip types. Evaluated the effects of instructions upon performance measures.

**Instructor, Engineering Work Methods (Virginia Tech)**

6/1988 - 8/1988; 6/1989 - 8/1989:

Responsible for class and lab lectures, grading, and organization. Students rated the teaching performance as excellent.

**Teaching Assistant, Engineering Work Methods (Virginia Tech)**

8/1987 - 11/1987; 9/1988 - 12/1988:

Conducted lab lectures in work measurements for a 93-student class. Graded lab reports.

**Teaching Assistant, Engineering Psychology (Virginia Tech)**

4/1988 - 6/1988:

Provided materials, guidance and logistics to 54 off-campus and 36 on-campus students through a satellite-based closed-circuit system. Lectured occasionally.

**Consulting and Non-Research Industrial Experience:**

Consulting for the Federal Occupational Safety and Health Administration (OSHA) on back injuries in food distribution centers, March 2003- present

Consultant and expert witness on several railroad back injury litigation cases, 1999-present  
Ergonomic consultant for several large Liberty Mutual customers including UPS, Northwest Airlines, and Lifetouch, on various ergonomic issues, 1995-1999.

Ergonomic consultant for PPG industries, Delaware, Ohio, 1991-1995; including job analysis/modification and the implementation of their ergonomics process.

Ergonomic consultant for AMETEK industries, Cambridge, Ohio, 1994-1995. Evaluation of upper extremities and low back cumulative trauma disorders in several assembly operations.

Ergonomic job assessment of various operations at two sub-divisions of the Sara Lee Corp, 1992

**Publications****Peer-Reviewed Journals**

1. Fathallah, F.A., Meyers, J.M., Miles, J.A. (submitted). Physical and anthropometric limitations of children when operating agricultural tractors. *J Agricultural Safety and Health*.
2. Agruss, C.D., Williams, K.R., and Fathallah, F.A. (in press). The effect of feedback training on lumbosacral compression during simulated occupational lifting. *Ergonomics*.
3. Reiter, D.A., Sarigul-Klijn, N., Gupta, M., and Fathallah, F.A. (2003). Swelling kinematics of the spine and its implications on low back pain. *J. Biomechanical Eng* 125(6), 875-880.
4. McGorry, R.W., Hsiang, S.M., Fathallah, F.A., and Clancy, E.A. (2001). Timing of activation of the erector spinae and hamstrings during a trunk flexion and extension task. *Spine*, 26, 418-425.
5. Dempsey, P.G., Burdorf, A., Fathallah, F.A., Sorock, G.S., and Hashemi, L. (2001). Influence of measurement accuracy on the application of the 1991 NIOSH equation. *Applied Ergonomics*, 32, 91-99.
6. Marras, W.S., Allread, W.G., Burr, D.L, and Fathallah, F.A. (2000). Validation of a low-back disorder risk model: A prospective study of ergonomic interventions associated with manual materials handling jobs. *Ergonomics* 43(11), 1866-1886.
7. Fathallah, F.A. and Cotnam, J.P. (2000). Maximum forces sustained during various methods of exiting commercial tractors, trailers and trucks. *Applied Ergonomics*, 31, 25-33.
8. Fathallah, F.A. Grönqvist, R., and Cotnam, J.P. (2000). Estimated slip potential on icy surfaces during various methods of exiting commercial tractors, trailers and trucks. *Safety Science*, 36, 69-81
9. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1999). Regression models for predicting continuous three-dimensional spinal loads during symmetric and asymmetric lifting tasks. *Human Factors*, 41, 373-383.
10. Fathallah, F.A., and Brogmus, E.G. (1999). Hourly trends in workers' compensation claims. *Ergonomics* 42(1), 196-207.

11. Dempsey, P.G., and Fathallah, F.A. (1999). Application and theoretical concerns regarding the 1991 NIOSH equation asymmetry multiplier. *Int J Ind Ergonomics* 23, 181-191.
12. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1998). An assessment of complex spinal loads during dynamic lifting tasks. *Spine* 23(6), 706-716.
13. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1998). The role of complex simultaneous trunk motions in the risk of occupation-related low back disorders. *Spine* 23(9), 1035-1042.
14. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1997). The effect of complex dynamic lifting and lowering characteristics on trunk muscles recruitment. *Journal of Occupational Rehabilitation*, 7(3), 121-137.
15. Fathallah, F.A., Marras, W.S., and Parnianpour, M., and Granata, K.P. (1997). A method for measuring external trunk loads during unconstrained free-dynamic lifting. *Journal of Biomechanics*, 30(9), 975-978.
16. Burdorf, A., Rosegnol, M., Fathallah, F.A., Snook, S., and Harrick, R. (1997). Challenges in assessing risk factors in epidemiological studies on back disorders. *Am J Ind Medicine*, 32(2), 142-152.
17. Granata, K.P., Marras, W.S., and Fathallah, F.A. (1996). A method for measuring external trunk loads during dynamic lifting. *Journal of Biomechanics*, 29(9), 1219-22.
18. Fathallah, F.A., Marras, W.S., Wright, P.L. (1995). Diurnal variation in trunk kinematics during a typical work shift. *Journal of Spinal Disorders*, 8(1), 20-25.
19. Marras, W.S., Lavender, S.A., Leurgans, S., Fathallah, F.A., Ferguson, S.A., Allread, W.G., and Rajulu, S. (1995). Biomechanical risk factors for occupationally related low back disorders. *Ergonomics*, 38(2), 377-410.
20. Marras, W.S., Lavender, S.A., Leurgans, S., Rajulu, S., Allread, W.G., Fathallah, F.A., and Ferguson, S.A. (1993). The role of dynamic three dimensional motion in occupationally related back disorders: The effects of workplace factors, trunk position and trunk motion characteristics on injury. *Spine*, 18(5), 617-628.
21. Marras, W.S., Fathallah, F.A., Miller, R.J., Davis, S.W., and Mirka, G.A. (1992). Accuracy of a three dimensional lumbar motion monitor for recording dynamic trunk motion characteristic. *International Journal of Industrial Ergonomics*, 9(1), 75-87.
22. Fathallah, F.A., Kroemer, K.H.E., and Waldron, R.L. (1991). A new finger strength (pinch) gauge. *International Journal of Industrial Ergonomics*, 8(7), 71-72.

#### **Refereed Proceedings (Presenter when First Author)**

1. Paskiewicz, J., and Fathallah, F.A. (2003). The effects of a manual furniture handling device on muscle activity and kinematics of the lower back. In the Proceedings of the Human Factors and Ergonomics Society 47th Annual Meeting. Santa Monica, CA: Human Factors and Ergonomics Society.
2. Fathallah, F.A., Miles, J.A., Faucett, F., Meyers, J.M., Janowitz, I., Kato, A.E., Garcia, E., Reiter, D.A., Miller, B.J., and Tejada, D.G. (2003). Ergonomic evaluation of pruning and harvesting tasks of winegrape trellis systems. In Proceedings of the International Ergonomics

- Association 15<sup>th</sup> Triennial Congress. Seoul, Korea.
3. Paskiewicz, J., and Fathallah, F.A. (2003). Effects of the GRIPSystem on muscle activity and kinematics of the lower back. In Proceedings of the International Ergonomics Association 15<sup>th</sup> Triennial Congress. Seoul, Korea.
  4. Meyers, M.M., Miles, J.A., Faucett, J., Fathallah, F.A., Janowitz, I., Tejada, D.G., Duraj, V., Suriano, A., Shaffi, M., and Sutter, S. (2003). Implementing the California ergonomics standard in agricultural operations. In Proceedings of the American Public Health Association 131<sup>st</sup> Annual Meeting and Exposition. San Francisco, California.
  5. Kato, A.E., and Fathallah, F.A. (2002). Ergonomic evaluation of California winegrape trellis systems. In Proceedings of the Human Factors and Ergonomics Society 46th Annual Meeting. Santa Monica, CA: Human Factors and Ergonomics Society.
  6. Rybczynski, I., and Fathallah, F.A. (2002). Effects of Glove Use in a Coating Removal Task. In Proceedings of the Human Factors and Ergonomics Society 46th Annual Meeting. Santa Monica, CA: Human Factors and Ergonomics Society.
  7. Meyers, M.M., Miles, J.A., Faucett, J., Janowitz, I., Fathallah, F.A., Tarter, M., Tejada, D.G., Kabashima, J., Smith, R., and Weber, E. (2002). Predicting Adoption of effective Safety Intervention. Summer Conference of the National Institute for Farm Safety. Ponte Vedra Beach, Florida.
  8. Fathallah, F.A., and Marras, W.S. (2001). Gender differences in the risk of occupational low back disorders. In Proceedings of the Human Factors and Ergonomics Society 45th Annual Meeting. Santa Monica, CA: Human Factors and Ergonomics Society.
  9. Fathallah, F.A., and Kato, A.E. (2001). Accuracy of a portable inclinometer for recording frequency of trunk sagittal flexion. In Proceedings of the Human Factors and Ergonomics Society 45th Annual Meeting. Santa Monica, CA: Human Factors and Ergonomics Society.
  10. Reiter, D.A., Sarigul-Klijn, N., Gupta, M., and Fathallah, F.A. (2001). In-vitro measurement of microgravity induced kinematics changes on the spine. *Advances in Bioengineering*, BED, ASME
  11. Meyers, M.M., Faucett, J., Miles, J.A., Janowitz, I., Fathallah, F.A., Suriano, A., Sutter, S., Tejada, D.G., Duraj, V., Shaffi, M. (2001). Implementing the California ergonomics standard in agricultural operations. Summer Conference of the National Institute for Farm Safety, Pittsburgh, PA.
  12. Dempsey, P.G., Sorock, G.S., Cotnam, J.P., Ayoub, M.M., Westfall, P.H., Maynard, W., Fathallah, F.A., and O'Brien, N. (2000). Field evaluation of the revised NIOSH lifting equation. International Ergonomics Association 14th Triennial Congress/Human Factors and Ergonomics Society 44<sup>th</sup> Annual Meeting.
  13. Janowitz, I., Tejada, D.G., Miles, J.A., Duraj, V., Fathallah, F.A., Meyers, J.M., Faucet, J. (2000). Ergonomics intervention in the harvest of manual wine grapes. International Ergonomics Association 14th Triennial Congress/Human Factors and Ergonomics Society 44<sup>th</sup> Annual Meeting.
  14. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (2000). Combined spinal loading and motion in occupational low back disorders. International Ergonomics Association 14th Triennial Congress/Human Factors and Ergonomics Society 44<sup>th</sup> Annual Meeting.

15. Sorock, G.S., Fathallah, F.A., Burdorf, A., Collins, J.W., Lipscomb, H.J., Reeve, G.R. (2000). The role of epidemiological studies in ergonomics research. International Ergonomics Association 14th Triennial Congress/Human Factors and Ergonomics Society 44<sup>th</sup> Annual Meeting.
16. Fathallah F.A., Grönqvist R., and Cotnam J.P. (1999). Slip potential during exit from commercial tractors. Human Factors and Ergonomics Society 43rd Annual Meeting.
17. Fathallah F.A., and Cotnam J.P. (1998). Impact forces during exit from commercial vehicles. Human Factors and Ergonomics Society 42nd Annual Meeting.
18. Allread W.G., Fathallah, F.A., and Marras W.S. (1998). The relationship between occupational musculoskeletal discomfort and workplace, personal, and trunk kinematic factors. Human Factors and Ergonomics Society 42nd Annual Meeting.
19. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1998). Prediction of three-dimensional spinal loads using motion, individual, and workplace factors. In S. Kumar (Ed.), Advances in Occupational Ergonomics and Safety 2 (279-282). Amsterdam: IOS Press.
20. Fathallah, F.A., and Burdorf, A. (1997). Exposure assessment methods of occupational low back disorders risk factors. In Proceedings of the International Ergonomics Association 13th Triennial Congress. Tampere, Finland: International Ergonomics Association.
21. Fathallah, F.A., and Brogmus, G.E. (1997). Hourly trends in occupational low back and cumulative trauma disorders. In Proceedings of the Human Factors and Ergonomics Society 41st Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
22. Sorock, G.S., Fathallah, F.A., Hashemi, L., and Dempsey, P.G. (1997). Measurement accuracy of the 1991 NIOSH equation parameters. In Proceedings of the Human Factors and Ergonomics Society 41st Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
23. Marras, W.S., Allread, W.G., Jorgensen, M.J., and Fathallah, F.A. (1997). A prospective validation of the LMM low back disorder risk model. In Proceedings of the International Ergonomics Association 13th Triennial Congress. Tampere, Finland: IEA.
24. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1996). Three-dimensional spinal loading during complex lifting tasks. In Proceedings of the Human Factors and Ergonomics Society 40th Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
25. Fathallah, F.A., Brogmus, G.E., Krawczyk, S., Lim, S.Y., Marras, W.S., Snook, S.H., Swanson, N.G., and Volinn, E. (1996). The role of psychosocial factors in occupational musculoskeletal disorders. In Proceedings of the Human Factors and Ergonomics Society 40th Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
26. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1996). A parametric study addressing the three-dimensional components of spinal loading during complex dynamic lifting tasks. *Advances in Bioengineering*, BED-Vol. 33, ASME.
27. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1996). Spinal combined motions and risk of occupational low back disorders. In Proceedings of the International Society for the Study of the Lumbar Spine. Burlington, VT: ISSLS.

28. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1996). Spinal combined loading during symmetric and asymmetric lifting tasks. In Proceedings of the International Society for the Study of the Lumbar Spine. Burlington, VT: ISSLS.
29. Fathallah, F.A., Marras, W.S., and Parnianpour, M. (1995). Spinal coupled motions and their association with the risk of low back disorders in industrial tasks. In Proceedings of the Human Factors and Ergonomics Society 39th Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
30. Fathallah, F.A., Wright, P.L., and Marras, W.S. (1993). Variation in trunk mobility throughout the work day. In Proceedings of the Human Factors and Ergonomics Society 37th Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
31. Ferguson, S.A., Fathallah, F.A., Granata, K.P., Kim, J.Y., and Marras, W.S. (1993). Coactivity effects on carpal tunnel contact forces. In Proceedings of the Human Factors and Ergonomics Society 37th Annual Meeting. Santa Monica, CA: The Human Factors and Ergonomics Society.
32. Marras, W.S., Lavender, S.A., Leurgans, S., Allread, W. G., Fathallah, F.A., Ferguson, S.A., and Rajulu, S. (1993). Three dimensional dynamic trunk motions, workplace factors, and occupational low back disorder. In Proceedings of the International Ergonomics Association World Conference on Ergonomics of Materials Handling and Information Processing (155-158). Warsaw, Poland.
33. Marras, W.S., Lavender, S.A., Leurgans, S., Fathallah, F.A., Ferguson, S.A., Allread, W. G., and Rajulu, S. (1993). Three dimensional dynamic trunk motions and the risk of occupationally-related low back disorder. In Proceedings of the International Society of Biomechanics XIVth Congress (824-825). Paris, France.
34. Marras, W.S., Lavender, S.A., Leurgans, S., Rajulu, S., Allread, W.G., Fathallah, F.A., and Ferguson, S.A. (1992). Industrial quantification of occupationally-related low back disorder risk factors. In Proceedings of the Human Factors Society 36th Annual Meeting (757-760). Santa Monica, CA: The Human Factors Society.
35. Marras, W.S., Lavender, S.A., Leurgans, S., Rajulu, S., Allread, W.G., Fathallah, F.A., and Ferguson, S.A. (1992). The role of trunk motion in occupationally-related low back disorder. International Society for the Study of the Lumbar Spine, 19th Annual Meeting, Chicago, IL.
36. Hallbeck, M.S., Rice, V.B., Fathallah, F.A., and Williams, V.H. (1989). Relationship between hand anthropometry and maximal pinch force. In Advances in Industrial Ergonomics and Safety I (507-513). London: Taylor and Francis.
37. Kroemer, K.H.E., Fathallah, F.A., and Langley, L.W. (1988). A new keyboard with chorded keys. In Proceedings of the Human Factors Society 32nd Annual Meeting (724-726). Santa Monica, CA: The Human Factors Society.
38. Berg, V.J., Clay, D.J., Fathallah, F.A., and Higginbotham, V.L. (1988). The effects of instruction on finger strength measurements: Applicability of the Caldwell regimen. In F. Aghazadeh (Ed.), Trends in Ergonomics/Human Factors V (191-198). Amsterdam: Elsevier.

### **Book Chapters and Technical Papers/Reports**

1. Fathallah, F.A. (in press). Falls during entry/egress from vehicles. In *Understanding and*

- Preventing fall Accidents*, Halsam, R.A., Stubbs, D.A. (Eds.). London: Taylor and Francis.
2. Kato, A., Fathallah, F., Garcia, E., Miles, J., Meyers, J., Facucett, J., and Janowitz, I. 2002. Ergonomic Evaluation of California Winegrape Trellis Systems. American Society of Agricultural Engineers Paper Number 01-8056.
  3. Meyers, J. M., J. A. Miles, J. Faucett, I. Janowitz, F. A. Fathallah, M. Tarter, D. G. Tejada, J. A. Kabashima, R. Smith, and E. Weber. 2002. Predicting adoption of effective safety interventions. Paper No. T-5, Summer Conference of the National Institute for Farm Safety, Ponte Vedra Beach, FL.
  4. Barrett, A. and F. A. Fathallah. 2001. Evaluation of four weight transfer devices for reducing loads on the lower back during agricultural stoop labor. American Society of Agricultural Engineers Paper Number 01-8056.
  5. Fathallah, F. A., J. M. Meyers, and J. A. Miles. 2001. Strength and anthropometric requirements for operating farm tractors: implications for young operators. American Society of Agricultural Engineers Paper Number 01-8057.
  6. Meyers, J. M., J. Faucett, J. A. Miles, I. Janowitz, F. A. Fathallah, A. Suriano, S. Sutter, D. G. Tejada, V. Duraj, and M. Shaffi. 2001. Implementing the California ergonomics standard in agricultural operations. Paper No. 01-03, Summer Conference of the National Institute for Farm Safety, Pittsburgh, PA.
  7. Maynard, W., Dempsey, P., Fathallah, F.A., Swaziek, D., and McGorry, R. 1999. Evaluation of photographer manual handling tasks. Internal report submitted to Lifetouch, Inc., Eden Prairie, MN.
  8. Fathallah, F.A., Dempsey, P.G., and Webster, S.W. (1998). Cumulative trauma disorders in industry. In *Ergonomics in Manufacturing*, Karwowski, W., Salvendy, G.(Eds.). Detroit: Society of Manufacturing Engineers
  9. Fathallah, F.A., and Klock, J.E. (1998). Trunk Postural evaluation of the articulating fifth boom (waggle) for the UNL-16 Extendo. Internal report submitted to United Parcel Service, Atlanta, GA
  10. Hsiang, H., Fathallah, F., Maynard, W., and Braun, T. (1998). Biomechanical simulation of manual luggage handling tasks. Internal report submitted to Northwest Airlines, Taylor, MI.
  11. Marras, W.S., Nelson, J.E., Davis, K G., Fathallah, F.A., Allread, W.G., and Lee, C. (1994). A Biomechanical Analysis of Two Grocery Checkstand/Scanning Operations: Laboratory Testing of the Out-of-the-Cart and Conventional Right-Hand-Take-away Checkstands. Internal report submitted to the Food Marketing Institute, Washington, D.C.
  12. Marras, W.S., Lehman, K.R., Greenspan, J.G., Nelson, J.E., Lee, C., and Fathallah F.A. (1993). A Biomechanical Analysis of Grocery Scanning Operations at Three Supermarkets. Final internal report submitted to the Food Marketing Institute, Washington, D.C.
  13. Marras, W.S., Allread, W.G., Fathallah, F.A., Ferguson, S.A., Granata, K.P., Lavender, S.A., Mirka, G.A., Rajulu, S., Sommerich, C.M., and Wright, P.L. (1992). Evaluation of motion components in occupationally-related low back disorders: Phase I. Basic Investigations. Internal report submitted to the Ohio Bureau of Worker's Compensation.

## Recent Presentations and Workshops

1. Presentation on: "Ergonomics in Agriculture," at the Challenges in Agricultural Health and Safety Conference, sponsored by the Western Center for Agricultural Health and Safety, and the National Institute for Occupational Safety and Health. September 9, 2003.
2. Presentation on: "Agricultural/Occupational Musculoskeletal Disorders," at the Western Occupational Health Conference, sponsored by the Western Occupational and Environmental Medical Association and the American College of Occupational and Environmental Medicine.
3. Invited lecture on "Agricultural Ergonomics Research in California," at the Liberty Mutual Research Institute," Hopkinton, MA, July 18, 2003.
4. National Institute of Occupational Safety and Health National (NIOSH), National Occupational Research Agenda (NORA) Biennial Meeting, talk on: "Risks of Musculoskeletal Disorders in California Winegrape Trellis Systems," Arlington, VA, June 24, 2003
5. National Institute of Occupational Safety and Health National (NIOSH) Tractor Related Fatality and Injury Workshop, talk on: "Evaluation of the NAGCAT Tractor Guidelines," Pittsburgh, PA, February 13, 2003.
6. University of Michigan/University of California short course on Control of Musculoskeletal Disorders in the Workplace: Principles and Case Studies: "Agricultural Back Injuries," Berkeley, CA, Dec 12, 2002.
7. Brouha Work Physiology Symposium, talk on "The use of direct measurements to assess MSD risks in manual agricultural work." Sacramento, Sept 12, 2002.
8. American Society of Agricultural Engineers Annual International Meeting, presentation on "Ergonomic Evaluation of California Winegrape Trellis Systems." Chicago, IL, July 30, 2002
9. Invited lecture on "Agricultural Ergonomics Research in California," at the Ohio State University Institute for Ergonomics- Guest Lecture Series- May 31, 2002.
10. UC Davis Family Practitioner/Physician Assistant Program, lecture on " Ergonomics and Occupational Musculoskeletal Disorders." May 2001-2004.
11. Invited lecture on "Ergonomics, Occupational Biomechanics and Musculoskeletal Disorders in Agricultural Environments," at the Agricultural Health and Safety Symposium- Oregon Health Sciences University- March 18, 2002.
12. University of Michigan/University of California short course on Control of Musculoskeletal Disorders in the Workplace: Principles and Case Studies: "Agricultural Back Injuries," Millbrea, CA, Dec 13, 2001.
13. Center for Occupational and Environmental Health 14th Annual Occupational Safety and Health Institute- Industrial Ergonomics: Job Analysis and Modification Techniques. Workshop on " Analysis of Manual Materials Handling." Oakland, CA, August 2, 2001.
14. American Society of Agricultural Engineers Annual International Meeting, presentation on "Strength and Anthropometric Requirements for Operating Farm Tractors: Implications



- for Young Operators." Sacramento, CA, August 1, 2001
15. American Society of Agricultural Engineers Annual International Meeting, presentation on " Evaluation of Three Wearable Devices for Reducing Loads on Lower Back During Agricultural Stoop Labor." Sacramento, CA, August 1, 2001
  16. Annual Integrated Grape Production Workgroup Meeting, University of California Division of Agriculture and Natural Resources, presentation on " Ergonomic Evaluation of Vineyard Trellis Systems." Davis, CA, March 28, 2001.
  17. UC Davis Exercise Science Graduate Group Monthly Seminar Series on "Exposure Assessment Techniques of Occupational Biomechanical Factors." February 2, 2001.
  18. Department of Biological and Agricultural Engineering board of advisors annual meeting, presentation on "Graduate Student Research-Occupational Biomechanics/Ergonomics-MS Program." January 26, 2001.
  19. UC Davis Agricultural Health and Safety Center Monthly Seminar Series on "Agricultural Ergonomics Update: Quantitative Techniques for Physical Risk Factors Assessment." February January 5, 2001.
  20. Invited talk on "Quantitative Techniques for Physical Risk Factors Assessment" at the Third Biennial Health and Safety in Western Agriculture: A Practical Approach, Sacramento, CA. November 7, 2000.
  21. Presentation at the Sacramento Ergonomics Round Table on "The Lumbar Motion Monitor and Risk Model for Low Back Injuries." October 10, 2000.
  22. Invited talk on "The Role of Ergonomics in Reducing Occupational Musculoskeletal Disorders" at the 19th Annual Occupational and Environmental Medicine Symposium, Sacramento, CA. May 6, 2000.
  23. Presentation for the UC Davis Agricultural Health and Safety Center Internal Advisory Board on the "Feasibility of the PimexPlus Video Capturing System in Agricultural Settings." February 23, 2000.
  24. Department of Biological and Agricultural Engineering Retirees' Seminar Series on "Occupational Biomechanics and Ergonomics Research at UC Davis." February 18, 2000.
  25. UC Davis Biomedical Engineering Graduate Group Monthly Seminar on "Occupational Biomechanics and Ergonomics Research at UC Davis." January 24, 2000.

### **Professional Activities**

Member: California Occupational Safety and Health Administration (Cal-OSHA) Advisory Committee on: Review of California Code of Regulations, Title 8, Section 3456 and the use of Hand Work to Weed, Thin and Hot Cap in Agricultural Operations. January 2003- present

Session Organizer: Lecture session on Ergonomics Research and Applications in Agriculture and Food Processing, 2003 American Society of Agricultural Engineers Annual Meeting.

Member: North American Guidelines for Children's Agricultural Tasks (NAGCAT) Advisory Team- February 2002-present.

Member: Prevention of Musculoskeletal Disorders for Children Working in Agriculture- Research Agenda Planning Committee- National Institute for Occupational Safety and Health- May 2002- present.

Chair, Lecture session on Upper Extremities Research. The Human Factors and Ergonomics Society 46th Annual Meeting, October, 2002.

Panel Chair: Agricultural Ergonomics at the Health and Safety in Western Agriculture: Cultivating Collaborations. Sept 4-6, 2002

Member: Jerome H. Ely Award Selection Committee- Human Factors and Ergonomics Society- 2001-present

Member: Best Student Paper Award Committee. Industrial Ergonomics Technical Group, Human Factors and Ergonomics Society- 2001-2002.

Member: Student Project Awards Committee- UC Center for Occupational and Environmental Health- 2001-present.

Chair, Lecture session on Applied Ergonomics Issues. The Human Factors and Ergonomics Society 45th Annual Meeting, October 2001.

Assisting Program Chair, Industrial Ergonomics Technical Group, the Human Factors and Ergonomics Society/International Ergonomics Association, 2000.

Program Chair, Industrial Ergonomics Technical Group, the Human Factors and Ergonomics Society, 1999

Joint Chair/Organizer, Panel Session on: "The Role of Epidemiology in Ergonomics Research." International Ergonomics Association 14<sup>th</sup> Triennial Meeting/The Human Factors and Ergonomics Society 43<sup>rd</sup> Annual Meeting, July 2000.

Ad-hoc Reviewer, NIH/CDC-NIOSH, Safety and Occupational Health Study Section and National Occupational Research Agenda (NORA) grant applications, 1998-present.

Member, ISO Technical Committee 159- Ergonomics (ISO TC 159)- US representation.

Presenter/Contributing Participant, Colloquium; Liberty Mutual-Harvard University Program in Occupational Health and Safety: Reflections on Biomechanics, 1998-1999.

Co-Chair, Lecture Session on Occupational Epidemiology. The Human Factors and Ergonomics Society 41st Annual Meeting, September 1997.

Chair/Organizer, Panel Session on: "The Role of Psychosocial Factors in Musculoskeletal Disorders." The Human Factors and Ergonomics Society 40th Annual Meeting, September 1996.

Chair, Symposium on: “The Recent Advances in Occupational Biomechanics and Industrial Ergonomics.” American Society of Mechanical Engineers Winter Annual Meeting (ASME-WAM), November 1996.

Contributing Participant, Symposium on Methodological Challenges to the Study of Occupational Injuries. Sponsored by Liberty Mutual Research Center, Harvard University School of Public Health, and NIOSH. June 10-11, 1996.

Ad-hoc Reviewer, Human Factors and Ergonomics Society; American Society of Mechanical Engineers, *IEEE Trans Rehab Eng*, *Am J Ind Med*, *Int J Ind Ergonomics*, *Occupational Biomechanics*; *Am Ind Hyg Assoc J*, *Ergonomics*; *Applied Ergonomics*, *Human Factors*.

### Contracts and Grants- UC Davis

**To:** CDC/NIOSH- US Department of Health and Human Services  
**Title:** Evaluation of the NAGCAT Tractor Guidelines (Principal Investigator)  
**Amount:** \$475,000      **Submitted:** 3/21/02      **Funded:** 8/1/03-7/31/06

**To:** CDC/NIOSH- US Department of Health and Human Services  
**Title:** Ergonomic Partnership to Address Treefruit Workers Injury (co-PI)  
**Amount:** \$719,000      **Submitted:** 6/9/02      **Funded:** 8/1/03-7/31/07

**To:** CDC/NIOSH- US Department of Health and Human Services  
**Title:** Effect of trellis design on risk factors for musculoskeletal disorders in wine grape work (Acting Principal Investigator)  
**Amount:** \$680,366      **Submitted:** 9/1/99      **Funded:** 6/1/00 - 5/31/04

**To:** CDC/NIOSH  
**Title:** Occupational Biomechanics (Ergonomics) Training Program. NIOSH Northern California Educational Resource Center- Continuing support for development of a graduate training program in Ergonomics and Occupational Biomechanics (co-P.I.)  
**Amount:** \$268,569      **Submitted:** 6/1/01      **Funded:** 7/1/01-6/30/04

**To:** Center for Occupational and Environmental Health- UC Berkeley-Davis-San Francisco  
**Title:** Laboratory improvement funds  
**Amount:** \$5,000      **Submitted:** 10/1/99      **Funded:** 1/1/00 - open

**To:** UC Davis New Faculty Research Grant  
**Title:** Validity of a video-based system in estimating spinal loads of vineyard workers  
**Amount:** \$3,000      **Submitted:** 10/8/99      **Funded:** 11/19/00 - 6/30/00

**To:** CDC/NIOSH- Department of Health and Human Services  
**Title:** Feasibility of the PimexPlus video capturing system in agricultural settings (Principal Investigator).  
**Amount:** \$47,724      **Submitted:** 10/1/99      **Funded:** 11/1/99 - 9/30/01

**To:** CDC/NIOSH- Department of Health and Human Services

**Title:** Accuracy and feasibility of the BackTalk to estimate long term exposure to extreme trunk postures in agricultural work (Principal Investigator).

**Amount:** \$47,636      **Submitted:** 10/1/99      **Funded:** 11/1/99 - 7/30/02

**To:** UCD College of Engineering Instructional, Educational and Research Funds

**Title:** Teaching equipment

**Amount:** \$4,500      **Submitted:** 12/15/99      **Funded:** 12/21/99

## University/Departmental Service

Department: Chair, Facilities and Safety committee (2001-present), Picnic Day (2001).  
Member, committees on Instruction (1999), Student Relations (2000), Budget (2000) and Facilities and Safety (2000), and Undergraduate Education (present).

University: Departmental representative to the Academic Senate (2002-present); member of the Human Resources Program Planning and Advisory Committee, University of California Division of Agriculture and Natural Resources, 2002-2004; UC Davis faculty representative to the programmatic committee for establishing the International Center, Davis, CA, 2001-2002; incoming member of the Academic Senate International Studies and Exchanges Committee

## Graduate Students-Major Advisor:

### *Graduated:*

Andrew Kato, MS 2002, Biological Systems Engineering- Currently with The Zenith Insurance

Jessica Paskiewicz, MS 2003, Biomedical Engineering- Currently with The Zenith Insurance

David Reiter, MS 2001, Mechanical and Aeronautical Engineering (co-advisor)

Ian Rybczynski, MS 2002, Biomedical Engineering. Currently with the US Air Force

### *Current Students:*

Ji Hong Chang, PhD, Biological Systems Engineering

John Kung, Biological Systems Engineering

Brandon Miller, MS, Biological Systems Engineering

Amjad Ramahi, MS, Biological Systems Engineering

David Reiter, PhD, Mechanical and Aeronautical Engineering

Debbie Schenberger, PhD, Biological Systems Engineering

Steven Tang, MS, Biological Systems Engineering

## Graduate Students-Thesis/Dissertation Committee Member:

### *Graduated:*

Tanya Garcia-MS 2001 Mechanical and Aeronautical Engineering

Bradford Winsor- MS 2000, Exercise Science

Jian Hua Woo- PhD 2003, Biological Systems Engineering

Andrew Holtz, DrEng, Biological Systems Engineering

***Current Students:***

Chris Agruss, PhD, Biomedical Engineering

Matthew Camilleri, PhD, Biomedical Engineering

Victor Duraj, MS, Biological Systems Engineering

Kirsten Unfried, MS, Exercise Biology Program

**Undergraduate Senior Design Projects- Faculty Advisor:**

2000-present- Nineteen three-quarter long projects, 35 Students in Biological Systems Engineering

**Computer Skills**

Systems: PC (Windows/DOS), Apple, IBM 3278 (Main Frame), Unix

Computer Languages: FORTRAN, BASIC, SLAM II, C/C++

Computer Software: Microsoft Office; Adobe Acrobat, Premiere, and Photoshop; End Note;  
numerous custom and commercial software programs

Statistical/Mathematical Software: SAS, SPSS, SYSTAT, STATISTICA, MINITAB,  
MATLAB, MATHCAD.

**Languages**

Arabic, native language

English, fluent speaker, very good writing and reading skills

French, good speaker, good reading skills and writing skills (French-educated)

Spanish, basic communication skills (introductory college classes)

## Curriculum Vita- David A. Reiter

### Office Address:

University of California  
Mechanical and Aeronautical Engineering  
One Shields Ave  
Davis, CA 95616  
Voice: 530.754.5825  
Email: dareiter@ucdavis.edu

### Education

**Ph.D.** – (Expected 2005) University of California at Davis, Davis, California

*Major:* Mechanical Engineering

*Specializations:* Biomechanics, Computational Methods, and Experimental Design

*Co-Advisors:* Fadi Fathallah and Rida Farouki

**M.S.** - March 2001, University of California at Davis, Davis, California

*Major:* Mechanical Engineering

*Specialization:* Biomechanics

*Advisor:* Nesrin Sarigul-Klijn

*Thesis:* A Study on Swelling Kinematics of the Spine and its Implications on Low Back Pain

**B.S.** – June 1998, North Carolina State University, Raleigh, North Carolina

*Major:* Mechanical Engineering

*Honors:* Summa Cum Laude

### Teaching Experience

2003 – Guest Lecturer for the course: Ergonomics and Biomechanics.

2000-2002 – Teaching Assistant in Biological and Systems Engineering for the course: Ergonomics and Biomechanics.

2000-2001 – Assisted faculty member in creating lab exercises for a new course in Ergonomics and Biomechanics.

1998-2000 – Teaching Assistant in Mechanical Engineering for the following courses: Strength of Materials, Mechanical Design, Finite Elements for Aerospace Applications, and Numerical Methods.

### University/Departmental Service

*Member:* Search committee graduate student representative for hiring a new Dean for the College of Engineering (2000-2001 and 2001-2002).

*Mentor:* Facilitated the exposure of graduate education to a female undergraduate for promoting diversity in Science and Engineering through the Women in Engineering Link program (2000).

*Orientation Leader:* Departmental orientation for incoming teaching assistants in Mechanical Engineering (1999, 2001).

*Volunteer:* Revised departmental handbook for teaching assistants (1999).

### **Field Experience**

California Processing Tomato Advisory Board (PTAB) – Performed an ergonomic evaluation of the test facilities including motion analysis of the trunk and wrist.

Trellis Evaluation for Wine Grape Vineyards – Performed an ergonomic evaluation on the influence of trellis type on the risk of worker injury during harvest. Study included motion analysis of the trunk and wrist. Study was funded by the National Institute for Occupational Health and Safety (NIOSH).

Railroad –Ergonomic evaluation of railroad labor. Evaluation involved force measurements, motion analysis of the trunk, and use of NIOSH lifting equation.

### **Industrial Experience**

1996-1997 - *Siemens Energy and Automation*, Wendell, NC. Designer for retrofits on commercial switchgear and circuit breakers.

1995 - *Bass, Nixon, and Kennedy*, Cary, NC. Assisted the Fire Protection Engineer in the design of new and retrofit fire protection systems for commercial buildings.

### **Awards**

2002 – Nominated and Awarded a Summer Research Assistantship for students working in the fields of Engineering or Computer-Related Applications and Methods. This award was granted for work related to deformation estimation in MR images of soft tissue

### **Publications**

#### **Peer-Reviewed Journals**

1. Reiter, D.A.; Sarigul-Klijn, N; Gupta, M; Fathallah, FA. In Vitro Measurements of Porcine Anterior Column Units Under Free Swelling. *ASME Journal of Biomechanical Engineering*, December 2003, Vol. 125, Issue 6, pp. 875-880.

#### **Refereed Proceedings**

1. Fathallah, F.A.; Miles, J.A.; Faucett, J.; Meyers, J.M.; Janowitz, I.; Kato, A.E.; Garcia, E.; Reiter, D.A.; Miller, B.J.; Tejada, D.G. Ergonomic Evaluation of Pruning and Harvesting Tasks of Winegrape Trellis Systems. *International Ergonomics Association (IEA) 2003 Triennial Meeting, Seoul, South Korea*.

2. Reiter, D.A.; Fathallah, F.A.; Sarigul-Klijn, N.; Gupta, M. Evaluation of swelling kinematics of the spine. *American Society of Biomechanics 2001*.

3. Reiter, D.A.; Sarigul-Klijn, N; Gupta, M; Fathallah, F.A. In-Vitro measurements of microgravity induced kinematics changes on spine. BED-Vol. 51, 2001, Advances in Bioengineering, *American Society of Mechanical Engineering 2001*.

#### **Technical Papers**

1. Fathallah, F.; Reiter, D; Jones, A. Ergonomic Evaluation of Processing Tomato Inspection Stations. No. 038024, *American Society of Agricultural Engineering 2003*.

## Curriculum Vita- Victor Duraj

### Office Address:

University of California  
Biological & Ag Engineering  
One Shields Ave  
Davis, CA 95616  
Voice: 530.754.9888  
Email: vduraj@ucdavis.edu

### Education

**Ph.D. Student** – (50% coursework as of June 2004; GPA 4.0) University of California at Davis, Davis, California (Admitted to M.S. program April 2003; degree objective changed to Ph.D. in April 2004)

**Major:** Biosystems Engineering

**Specializations:** Field Machinery, Hand Tools, and Biomechanics

**Advisor:** John A Miles

**B.S.** – June 1991, University of California at Davis, Davis, California

**Major:** Mechanical Engineering

### Teaching Experience

Department of Biological & Ag Engineering, University of California at Davis:

2001-2004 – Guest Lab Lecturer for the course: Biomechanics and Ergonomics.

2000-2001 – Assisted faculty member in creating lab equipment for a new course in Biomechanics and Ergonomics.

1999-2004 - Lab Engineer for the course lab section: Graphics Design Lab.

1998-2004 - Design and manufacturing consultant to students for the course: Engineering Projects .

### Lab & Field Experience

1996-2004 - *Agricultural Ergonomics Research Center, Biological & Ag Engineering, University of California at Davis, Davis, CA.* Associate Development Engineer for Research Team. Design, fabricate, and specify machinery, tools, and data gathering equipment. On NIOSH Nursery Ergonomics Project, designed, fabricated, and field tested a suite of hand tools for a variety of container sizes. On NIOSH Winegrape Harvest Project, designed, fabricated, and field tested machinery to machine-handle picking containers. Designed, fabricated, and field tested prototype cilantro harvesting machine. Performed research or instrumentation work on harvesting knives, hand and power pruners, weeding shovels and hoes.

### Industrial Experience

1992-1995 - *Hunt-Wesson, Inc., Davis, CA.* Project Engineer for instrumentation & control retrofit of triple-effect evaporators, for design and management construction of new tomato sorting and dicing area, and for completion of construction of new



cafeteria/restroom facilities. Also, provided Lock-out/Tagout training and supervised Fire Alarm & Suppression System.

## **Publications**

### **Peer-Reviewed Journals**

1. Janowitz, I; Meyers, JM; Tejada, DG; Miles, JA; Duraj, V; Faucett, J; Kabashima, JN. Reducing Risk Factors for the Development of Work-Related Musculoskeletal Problems in Nursery Work. *Applied Occupational and Environmental Hygiene, January, 1998, Vol 13, No. 1, pp. 9-14 [ISSN 1047-322X]*.

### **Technical Papers**

1. Duraj, V; Holtz, AJ; Miles, JA; Meyers, JM. Machine Handling of Winegrape Picking Containers in Hand Harvest Operations. No. 031144. *American Society of Agricultural Engineering, Las Vegas, NV. 2003*.
2. Duraj, V; Miles, JA; Meyers, JM. Continued Work on Machine Handling of Winegrape Picking Containers. No. 021107. *American Society of Agricultural Engineering, Chicago, IL. 2002*.
3. Duraj, V; Miles, JA; Meyers, JM. Machine Handling of Winegrape Picking Containers. No. 011100. *American Society of Agricultural Engineering, Sacramento, CA. 2001*.
4. Duraj, V; Miles, JA; Meyers, JM; Faucett, JA; Janowitz, IL, Tarter, ME; Tejada, DG; Smith, RH; Weber, EA. Harvesting Aids For Reducing Ergonomics Risk Factors in Wine Grape Hand Harvesting. No. 007001. *American Society of Agricultural Engineering, Milwaukee, WI. 2000*.
5. Duraj, V; Miles, JA; Meyers, JM. Development of a Conveyor-Based Loading System For Reducing Ergonomics Risks In Manual Harvest of Wine Grapes. No. 997050. *American Society of Agricultural Engineering, Toronto, Ontario, Canada. 1999*.
6. Duraj, V; Miles, JA; Meyers, JM; Kabashima, JN; Janowitz, IL. Precision Dispenser for Application of Growth Regulator in Wholesale Nurseries. No. 987008. *American Society of Agricultural Engineering, Orlando, Florida. 1998*.

### **University/Departmental Service**

*Member:* Facilities & Safety Committee for Department of Biological & Ag Engineering (2002-2003 and 2003-2004).

*Volunter Advisor:* Antique Mechanics Club comprised of students collecting, restoring, and operating vintage farm machinery. (1993-2004).

*Volunteer Manager:* Agricultural Machinery Collection and Restoration Facility for vintage farm machinery comprised of tractors, engines, and other field equipment. Responsibilities include safety program and training of students and other volunteers (1993-2004).



New Jersey  
**Work Environment Council**  
Safe, secure jobs and a healthy, sustainable environment

142 West State Street, Third Floor  
Trenton, NJ 08608-1102  
Phone: 609-695-7100  
Fax: 609-695-4200  
www.njwec.org

May 6, 2013

Robert Kulick  
Regional Administrator  
Region 2  
Occupational Safety and Health Administration, USDOL  
201 Varick St., Room 670  
New York, NY 10014

Dear Administrator Kulick:

On behalf of the New Jersey Work Environment Council (WEC), I write concerning a nationally significant OSHA 11(c) investigation and urge you to consider the chilling effect on worker safety and health activity if retaliation by the Phillips 66 corporation against (b) (6) is allowed to stand.

As you know, there is a continuing controversy at the Phillips 66 (Bayway) petroleum refinery in Linden, New Jersey, involving workers and their union (Teamsters Local 877) and management over process safety and fire protection. Local 877 has raised specific concerns to management about the company cutting plant fire protection, including staffing for this purpose. This issue has been featured on ABC-TV Channel 7 (NYC) and in the *Star Ledger of Newark* (go to [www.njwec.org](http://www.njwec.org) for links). Local 877 also filed a complaint with OSHA alleging violations of OSHA's Hazardous Waste and Emergency Operations standard on February 13, 2013.

However, instead of seriously addressing worker concerns and making efforts to reduce potential risks to both employees and surrounding communities, Phillips 66 management ordered (b) (6)

[REDACTED]

OSHA Region 2 is currently investigating the Section 11(c) complaint concerning (b) (6)

[REDACTED] As part of this investigation, WEC urges you to:

1) Consider the broad implications for worker safety and health activity in New Jersey and nationally if illegal company action against (b) (6) is in any manner sustained; and

2) Not defer to the outcome of any proceedings under the National Labor Relations Board or the labor-management grievance procedure, but to act to secure a just remedy.

According to 1977.18(a)(3), “Where a complainant is in fact pursuing remedies other than those provided by section 11(c), postponement of the Secretary's determination and deferral to the results of such proceedings **may** [our emphasis] be in order.” This language appears to mean that OSHA has discretion in this regard.

And further, according to 1977.18(c), “A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, **after careful scrutiny of all available information** [our emphasis].”

Thank you for your consideration.

Sincerely,

*Rick Engler*

Rick Engler  
Director

C: David Michaels, Assistant Secretary of Labor for Occupational Safety and Health  
Jordan Barab, Deputy Assistant Secretary of Labor for Occupational Safety and Health  
Beth Slavet, Director, Directorate of OSHA Whistleblower Protection Program  
Pat Rodenhausen, Regional Solicitor, U.S. Department of Labor  
Patricia Jones, Area Director, OSHA Avenel Office  
Laura Kenny, Labor Liaison, OSHA Region 2  
James P. Hoffa, International President, International Brotherhood of Teamsters (IBT)  
Fred Potter, International Vice President, At Large, IBT  
Alphonse Rispoli, Jr., President, IBT Joint Council 73, IBT  
Lamont Byrd, Director, Safety and Health Department, IBT  
Leo Gerard, International President, United Steelworkers (USW)  
Gary Beevers, International Vice President, USW  
John Shinn, Director, District 4, USW  
Michael Wright, Director, USW Department of Health, Safety, and Environment  
Eric Frumin, Health and Safety Director, Change to Win  
Peg Seminario, Health and Safety Director, AFL-CIO  
Tom O'Connor, Executive Director, National Council for Occupational Safety & Health  
David Foster, Executive Director, BlueGreen Alliance  
Senator Frank Lautenberg  
Senator Robert Menendez  
Representative Donald Payne, Jr.  
Representative Robert E. Andrews  
Representative Rush Holt  
Garrett Doherty, President, IBT Local 877  
John Pajak, Vice President, IBT Local 877  
David Tykulsker, Counsel for IBT Local 877

**From:** [Eric Frumin](#)  
**To:** [Sloane, Walter - OSHA CTR](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** people for meeting on Thursday; conf call number  
**Date:** Tuesday, June 10, 2014 12:39:53 PM

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Eric Frumin, CtW  
Peg Seminario, AFL-CIO  
Steve Sallman, USW  
Robyn Robbins, UFCW  
Chris Trahan, CPWR  
LaMont Byrd, IBT  
Mark Catlin, SEIU  
Darius Sivin, UAW  
Denise Bowles, AFSCME

Others will be calling in by phone. I have already set up a conf call number myself, since I needed to send it out to the group.

Can you please send this information to anyone from OSHA or SOL who is calling in as well. I believe that Bob Kulick from Region 2 was a possible off-site participant.

877-336-1831

code: (b) (6)

The people calling in from our group will be Steve Yokich, UAW; Gail Bateson, Worksafe; and Fran Schreiber, Kazan law firm.

Thanks.  
Eric

**From:** [Chris Trahan](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** posting an osha ppt  
**Date:** Monday, September 23, 2013 3:14:45 PM  
**Attachments:** [OSHA Silica Presentation SBA Roundtable 092013.ppt](#)

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Hi Debbie,

Scott provided the attached. It is excellent. Is there any reason we shouldn't post it on [www.elcosh.org](http://www.elcosh.org) and/or [www.silica-safe.org](http://www.silica-safe.org) ? I have not seen it posted on OSHA's page, so I thought I would check with you before we slammed it up.

Thanks,

Chris

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**From:** Bruce Lippy  
**Sent:** Monday, September 23, 2013 3:06 PM  
**To:** Chris Trahan  
**Subject:** FW: BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Chris, this PPT from OSHA does a good job explaining the proposed rule. Okay to post it on eLCOSH or do we want to hold everything on silica until the Building Trades have formally commented?

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**From:** Scott Schneider [<mailto:schneider@lhsfna.org>]  
**Sent:** Monday, September 23, 2013 2:12 PM  
**To:** Pete Stafford; Brian Loftus, MOST; Bridget Connors, MOST; Caryn Halifax, BAC; Charles Austin, SMOHIT; Deven Johnson, OPCMIA; Donna Mortensen, OPCMIA; Gerard Scarano (Roberta Haut); Gerard Scarano, BAC; Jamie Becker; Jim Tomaseski, IBEW; John Barnhard, Roofers; Julie Plavka, IBT; Kevin Flynn, BAC; LaMont Byrd, Teamsters; Laurie Shadrack, UA; Lee Worley, Ironworkers; Mark Garrett, Boilermakers; Mark Mullins, EIWPF; Sarah Coyne, IUPAT; Steven L. Rank, Ironworkers; Terry Lynch, Asbestos Workers; Tom Haun, Asbestos Workers; Travis Parsons; Vicki Bor, Sherman Dunn; Walter A. Jones; Wayne Creasap, TAUC  
**Cc:** Chris Trahan; Vivian Foggo; Jim Platner; Eileen Betit; Bruce Lippy; Laura Welch; Pam Susi- Contact; Celia Voyles; Robin Baker  
**Subject:** RE: BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Attached is an OSHA PowerPoint about the proposed rule.

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**From:** Pete Stafford [<mailto:PStafford@cpwr.com>]  
**Sent:** Monday, September 23, 2013 1:54 PM  
**To:** Brian Loftus, MOST; Bridget Connors, MOST; Caryn Halifax, BAC; Charles Austin, SMOHIT; Deven Johnson, OPCMIA; Donna Mortensen, OPCMIA; Gerard Scarano (Roberta Haut); Gerard Scarano, BAC; Jamie Becker; Jim Tomaseski, IBEW; John Barnhard, Roofers; Julie Plavka, IBT; Kevin Flynn, BAC; LaMont Byrd, Teamsters; Laurie Shadrack, UA; Lee Worley, Ironworkers; Mark Garrett, Boilermakers; Mark Mullins, EIWPF; Sarah Coyne, IUPAT; Scott Schneider; Steven L. Rank, Ironworkers; Terry Lynch, Asbestos Workers; Tom Haun, Asbestos Workers; Travis Parsons; Vicki Bor, Sherman Dunn; Walter A. Jones; Wayne Creasap, TAUC  
**Cc:** Chris Trahan; Vivian Foggo; Jim Platner; Eileen Betit; Bruce Lippy; Laura Welch; Pam Susi- Contact; Celia Voyles; Robin Baker  
**Subject:** BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Dear BCTD Safety & Health Committee,

Per our discussion at last week's BCTD Safety & Health Committee meeting, it was decided to devote the month of October to work on our position/comments in response to OSHA's proposed silica standard. While the Silica Sub-Committee, chaired by BAC's Gerry Scarano, will take the lead in coordinating our efforts, all Committee members will be notified of meetings and encouraged to participate in them. This has been a long time in coming, and we want to be sure that everyone with an interest has an opportunity to be heard and participate in the journey as we go down the OSHA rulemaking path.

Chairman Scarano has scheduled two Silica Sub-Committee meetings for the month of October, as follows:

Wednesday, October 9, 10 AM to 12 Noon; and  
Wednesday, October 23, 10 AM to 12 Noon.

Both meetings will be held at BAC Headquarters, 620 F Street, N.W. A call-in number will be sent prior to the meeting for those of you who would like to participate but won't be able to attend.

Please confirm your attendance with Celia, who is copied on this email, and let me know if you have any questions or would like to discuss.

We also agreed to push back the quarterly meeting with the employer associations to November, to allow us time to focus on the silica standard and develop our position on various elements of the proposed rule. The joint BCTD Safety & Health Committee and Employer Association meeting is now scheduled for Thursday, November 7. I'll send the formal announcement to you and the employer associations in the coming days. As you know, most of these employer associations have joined together in a coalition to oppose the rule. We decided last week to have a discussion with our employers to openly share our views and concerns about the proposed rule, even though we recognize we'll probably agree to disagree on certain provisions of the proposal. Should be an interesting discussion. More to come.

Regards,  
Pete



**From:** [Eric Frumin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: call in number 4:30 Thursday  
**Date:** Wednesday, September 11, 2013 2:02:50 PM

---

Hear back from IBT yet?

[sent from my mobile - please excuse typos]

On Sep 11, 2013, at 1:26 PM, "Berkowitz, Deborah - OSHA" <[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

**Conference Line No. - 1-866-717-7898**  
**Participant Code: -** (b) (6)

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

[<image001.png><image002.png>](#)

[<image003.png>](#)



**From:** [Mashayekhi Azita](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?  
**Date:** Wednesday, September 18, 2013 11:40:10 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
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[barab.jordan@dol.gov](mailto:barab.jordan@dol.gov)?

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**To:** Mashayekhi Azita  
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(b) (6)

Do you have his email?

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Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000



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**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

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If it might help, please share the SEIU list with me or take another look or ask the source , to see if I am missing some.

Much thanks.  
Azita

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Research said Extendicare may have bought some other sites so they show up under other names.  
Do you have info on any others we represent?  
I assume the ones under other names would be included in a CSA.

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2600 WEST RUN ROAD  
PITTSBURGH, PA 15120  
4/30/2015  
8051  
COOK  
MAINTENANCE MAN  
AIDE, DIETARY

AIDE, LAUNDRY  
NURSE, LP

Thanks.  
Azita

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**Conference Line No. - 1-866-717-7898**  
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Could you kindly jig my memory by sending any background and pertinent info to me?  
Meanwhile, I am obtaining a list of our membership in nursing homes nationwide.  
Do you need to call before 430 today?  
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Best regards,  
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Azita Mashayekhi, MHS  
Staff Industrial Hygienist  
Safety and Health Department  
International Brotherhood of Teamsters  
(202) 624-6830 Phone  
(202) 624-8740 Fax

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**Sent:** Wednesday, September 11, 2013 3:07 PM  
**To:** Byrd Lamont; Mashayekhi Azita  
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2600 WEST RUN ROAD  
PITTSBURGH, PA 15120  
4/30/2015  
8051  
COOK  
MAINTENANCE MAN  
AIDE, DIETARY

AIDE, LAUNDRY  
NURSE, LP

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**From:** [Hellman, Kenneth - SOL](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?  
**Date:** Wednesday, September 18, 2013 10:24:19 AM  
**Attachments:** [image001.png](#)  
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thanks

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**From:** Berkowitz, Deborah - OSHA  
**Sent:** Wednesday, September 18, 2013 10:17 AM  
**To:** Bean, Allen - SOL; Hellman, Kenneth - SOL  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Oops—sorry for the re. line. That’s an old one. I wanted you to see the email itself which indicated the SEIU list of unions in Extendicare may not be correct.

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000



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**From:** Bean, Allen - SOL  
**Sent:** Wednesday, September 18, 2013 10:05 AM  
**To:** Berkowitz, Deborah - OSHA; Hellman, Kenneth - SOL  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Yes (assuming it’s 3:30 CST).

---

**From:** Berkowitz, Deborah - OSHA  
**Sent:** Wednesday, September 18, 2013 8:58 AM  
**To:** Hellman, Kenneth - SOL; Bean, Allen - SOL  
**Subject:** FW: Can you participate in conference call at 4:30 tomorrow?

fyi

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Azita

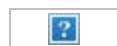
**Search For Facilities**



To find a facility near you or your loved one, please use the drop down menus below.

[Top of Form](#)

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[Bottom of Form](#)

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**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Thursday, September 12, 2013 5:14 PM  
**To:** Mashayekhi Azita  
**Subject:** Re: Can you participate in conference call at 4:30 tomorrow?

Weyauwega.

**From:** Mashayekhi Azita [<mailto:AMashayekhi@teamster.org>]  
**Sent:** Thursday, September 12, 2013 05:11 PM  
**To:** Berkowitz, Deborah - OSHA

**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Debbie, I got the spot in Latrobe, PA and one in Pittsburgh, PA.  
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We have a few but none sounded like the name you mentioned.  
Thanks.  
Azita

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**Sent:** Thursday, September 12, 2013 2:19 PM  
**To:** Mashayekhi Azita  
**Subject:** Re: Can you participate in conference call at 4:30 tomorrow?

In meetings-will share at meeting

---

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Thanks.  
Azita

---

**From:** Mashayekhi Azita  
**Sent:** Thursday, September 12, 2013 12:30 PM  
**To:** 'Berkowitz, Deborah - OSHA'  
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Do you have info on any others we represent?  
I assume the ones under other names would be included in a CSA.

Local 249 **EXTENDICARE HEALTH SERVICES, INC.** 30  
2600 WEST RUN ROAD  
PITTSBURGH, PA 15120  
4/30/2015  
8051  
COOK  
MAINTENANCE MAN  
AIDE, DIETARY  
AIDE, LAUNDRY  
NURSE, LP

Thanks.  
Azita

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]

**Sent:** Thursday, September 12, 2013 11:30 AM  
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Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000



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Is it possible to see the citations online?

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**Cc:** Eric Frumin  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

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**Conference Line No. - 1-866-717-7898**  
**Participant Code: - 8904884**

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000



---

**From:** Mashayekhi Azita [<mailto:AMashayekhi@teamster.org>]  
**Sent:** Thursday, September 12, 2013 11:02 AM



**To:** Berkowitz, Deborah - OSHA

**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Dear Debbie, Thank you for writing to us.

I was away yesterday but per LaMont, will be on the call at 430 today.

Could you kindly jig my memory by sending any background and pertinent info to me?

Meanwhile, I am obtaining a list of our membership in nursing homes nationwide.

Do you need to call before 430 today?

Can Eric Frumin be on the call as well (if he is available)?

Best regards,

Azita

Azita Mashayekhi, MHS

Staff Industrial Hygienist

Safety and Health Department

International Brotherhood of Teamsters

(202) 624-6830 Phone

(202) 624-8740 Fax

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]

**Sent:** Wednesday, September 11, 2013 3:07 PM

**To:** Byrd Lamont; Mashayekhi Azita

**Subject:** Can you participate in conference call at 4:30 tomorrow?

Hi Lamont and Azita,

We are in the beginning of negotiations with a nursing home chain for a possible corporate wide settlement agreement on an ergonomic citation. We understand that IBT may represent four of the facilities. The citations are from four other facilities—one represented by SEIU. We'd like to have you call into a meeting tomorrow at 4:30 here at DOL (and we have a call in number) to gather your input into any settlement negotiations that we may have with the company. Do you have any time to talk later?

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Deborah Berkowitz

Senior Policy Advisor

Occupational Safety and Health Administration

202-693-2000



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**From:** [Mashayekhi Azita](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?  
**Date:** Thursday, September 12, 2013 5:20:38 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Thanks. Does it state the local union number?

In Wisconsin, we have Superior, Eu Claire, and Owen - as indicated on the list I sent you.

Will call the locals to see about Weyauwega.

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Thursday, September 12, 2013 5:14 PM  
**To:** Mashayekhi Azita  
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2600 WEST RUN ROAD  
PITTSBURGH, PA 15120  
4/30/2015  
8051  
COOK  
MAINTENANCE MAN  
AIDE, DIETARY  
AIDE, LAUNDRY  
NURSE, LP

Thanks.

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202-693-2000



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Senior Policy Advisor  
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Meanwhile, I am obtaining a list of our membership in nursing homes nationwide.  
Do you need to call before 430 today?  
Can Eric Frumin be on the call as well (if he is available)?  
Best regards,  
Azita

Azita Mashayekhi, MHS  
Staff Industrial Hygienist  
Safety and Health Department  
International Brotherhood of Teamsters  
(202) 624-6830 Phone  
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Debbie

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**From:** [Mashayekhi Azita](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?  
**Date:** Wednesday, September 18, 2013 2:02:12 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.jpg](#)  
[image005.jpg](#)  
[image006.jpg](#)

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This is the link I meant to send to find Extendicare facilities by State:

[http://www.extendicareus.com/facilities.aspx?  
fld\\_country\\_ddl=1&fld\\_stateprovince\\_ddl=PA&fld\\_service\\_ddl=](http://www.extendicareus.com/facilities.aspx?fld_country_ddl=1&fld_stateprovince_ddl=PA&fld_service_ddl=)

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Wednesday, September 18, 2013 12:18 PM  
**To:** Mashayekhi Azita  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Yes!

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000



---

**From:** Mashayekhi Azita [<mailto:AMashayekhi@teamster.org>]  
**Sent:** Wednesday, September 18, 2013 10:58 AM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

[barab.jordan@dol.gov](mailto:barab.jordan@dol.gov)?

Thank you so much for updating me. I was so upset about it.

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Wednesday, September 18, 2013 10:56 AM  
**To:** Mashayekhi Azita  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

(b) (6)

[Redacted]

[Redacted]

[Redacted] Do you have his email?

---

Deborah Berkowitz

Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

---

**From:** Mashayekhi Azita [<mailto:AMashayekhi@teamster.org>]  
**Sent:** Wednesday, September 18, 2013 10:08 AM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Debbie, How is Jordan doing?  
I would like to say hi to him by email but do not know where to send.  
Thank you.  
Azita

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Wednesday, September 18, 2013 9:58 AM  
**To:** Mashayekhi Azita  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Thank you! Let me check with our attorneys—hopefully they got a more accurate list from the company.

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

---

**From:** Mashayekhi Azita [<mailto:AMashayekhi@teamster.org>]  
**Sent:** Tuesday, September 17, 2013 7:18 PM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Can you participate in conference call at 4:30 tomorrow?

Hi Debbie, I hope you are well.  
I think in our phone conversation you said the Teamsters have two Extencicare facilities in deferral OSHA states.

Ive looked at our database and can only find one Extencicare facility in Pittsburgh, PA. I am gathering their OSHA 300s forms and other info, and was told they have a joint safety and health committee.

In WI, I called all three that we represent and none are Extencicare and we have no facility in Weyauwega- which you thought was a Teamster facility.

I also checked on the Extencicare website, where you can check all their facilities nationwide



(Delaware, Idaho, Indiana, Michigan, Minnesota, Ohio, Oregon, Pennsylvania, Washington, West Virginia, Wisconsin),  
and their facility in Weyauwega is nonunion. I matched our membership in the Federal States on that list (DE, ID, OH, PA, WV, WI ) and none of the Teamster sites on our database match the names on the Extencicare site.

If it might help, please share the SEIU list with me or take another look or ask the source , to see if I am missing some.

Much thanks.  
Azita

**Search For Facilities**

To find a facility near you or your loved one, please use the drop down menus below.

Top of Form

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Bottom of Form

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In meetings-will share at meeting

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2600 WEST RUN ROAD

PITTSBURGH, PA 15120

4/30/2015

8051

COOK

MAINTENANCE MAN

AIDE, DIETARY

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**From:** [Hughes, Chip \(NIH/NIEHS\) \[E\]](#)  
**To:** [Kenny, Laura - OSHA](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: COuld you come for part of this meeting????  
**Date:** Thursday, June 13, 2013 6:30:14 PM

---

I think it would be important that we at least "coordinate " to assure that there's no obvious overlap in funding. Can we do a call before Thurs.? The safety culture conference was awesome. Thanks for getting David to come.

Sent from Chip's BlackBerry 10 smartphone.

From: Kenny, Laura - OSHA  
Sent: Thursday, June 13, 2013 5:22 PM  
To: Hughes, Chip (NIH/NIEHS) [E]  
Cc: Berkowitz, Deborah - OSHA  
Subject: RE: COuld you come for part of this meeting????

Thanks, Chip. This is helpful. Should I be prepared to address anything? Thanks.

Laura

---

From: Hughes, Chip (NIH/NIEHS) [E] [<mailto:hughes3@niehs.nih.gov>]  
Sent: Thursday, June 13, 2013 5:17 PM  
To: Kenny, Laura - OSHA  
Cc: Berkowitz, Deborah - OSHA  
Subject: RE: COuld you come for part of this meeting????

Here is a summary of the proposed awards for \$1,750,000.

We would love to have someone from OSHA join us on Thursday at UBC.

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MDB Inc.; CSEA

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\$150,000

West Virginia Army National Guard

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Cc: Berkowitz, Deborah - OSHA  
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Sent: Tuesday, May 07, 2013 11:36 AM

To: Hughes, Chip (NIH/NIEHS) [E]; John Morawetz; jssagi@yahoo.com<<mailto:jssagi@yahoo.com>>

Subject: OSHA enforcement in NJ

South Jersey firms facing OSHA fines from Sandy repair jobs - [pressofAtlanticCity.com](http://www.pressofatlanticcity.com): Breaking News  
<<http://www.pressofatlanticcity.com/>>

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By LEE PROCIDA, Staff Writer | Posted: Sunday, May 5, 2013 12:01 am

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Most violations were concentrated on Long Beach Island, where 12 different contractors were cited in Long Beach Township, Beach Haven and Ship Bottom. Other communities where more than one violation occurred were Longport, Stafford Township, Spring Lake and Seaside Park.

The Press obtained the records through a Freedom of Information Act request and by reviewing public information on the OSHA.gov<<http://OSHA.gov>> website.

Most contractors, landscaping companies and other establishments have disputed these allegations, which are frequently related to exposing workers to fall hazards and not providing employees with legally required training or equipment.

OSHA enforces the Occupational Safety and Health Act of 1970 and other applicable laws. Its investigators have jurisdiction over most private sector workplaces in New Jersey.

Many of the companies fined for Sandy-related work in New Jersey have already settled with the government, often halving the initial fine amounts. Other, more recent cases are still being negotiated or are in the appeal process.

Chuck Fuernisen, owner of Egg Harbor Township-based C.H. Fuernisen Construction, said he plans to challenge a \$5,200 fine his company received in April because a worker was not wearing a safety harness while doing work at a storm-damaged home in Longport.

"I'm appealing it for sure," Fuernisen said. "I'm always safety conscious. My guys, I run them through every safety aspect for everything that we do."

In the immediate aftermath of the storm, some business leaders and elected officials were outraged that OSHA inspectors were at job sites on Long Beach Island and other shore towns, saying they were slowing the recovery. OSHA officials said that maybe a couple dozen inspectors were sent to storm-damaged areas in the weeks after the storm, and that their role for at least the first month was to consult and advise utility companies and contractors in charge of recovery efforts.

"At the early stages, we provided mainly technical assistance, as opposed to enforcement, and then we segued steadily into enforcement mode," said Kris Hoffman, area director of OSHA's Parsippany office.

Also, most of the investigations that resulted in violations during November, in the weeks immediately following the Oct. 29 storm, were for projects that existed prior to Sandy.

Of the alleged safety violations by companies doing work unrelated to the storm but in storm-damaged towns, OSHA inspectors have levied at least another \$80,000 in fines during the past six months.

Jon Nelke, owner of J Nelke Roofing Inc., was cited for two different allegedly unsafe job sites in Long Beach

Township, one storm-related and one not. He reached a settlement with the department for the Sandy-related violation, an alleged fall hazard, and agreed to pay a \$2,400 fine that was reduced from \$4,800.

He also reached a settlement to pay \$3,360 for another fall hazard violation inspectors reported on Nov. 14.

"I'm going to be paying \$250 a month for the next two ... years," Nelke said.

Paula Dixon-Roderick, area director for OSHA's Marlton Area Office, said the influx of OSHA workers to storm areas was a standard response to an emergency, just like compliance officers were sent to Louisiana in the aftermath of Hurricane Katrina.

She also said that her office normally operates with about 16 inspectors to cover 10 counties, including all the coastal counties, and only a handful more were brought in from outside the area.

"I'm always faced with accomplishing our mission with limited resources," she said. "Nothing has been changed, we're just allocating our resources to where the most hazards exist."

While these inspections were criticized by some, Hoffman and Dixon-Roderick said the point was to keep other people from dying after the storm.

OSHA investigations start when either an investigator sees hazardous activity from a public right-of-way, a complaint is made, or an accident actually occurs. Of the Sandy-related violations in New Jersey, only a few stemmed directly from accidents.

In November, a 35-foot tree fell and killed an employee with Garden State Tree & Lawn LLC, of Pittstown, who was cutting it down in Colts Neck, Monmouth County. Inspectors said the company did not provide its employees with a safe working environment, and the company agreed to pay a \$1,680 fine.

In December, workers from Glenside Equipment Co., of Jackson Township, were removing curbside debris in Brick Township and directing traffic around the closed eastbound lane when one worker was hit and killed by an SUV.

Inspectors said the employees did not have proper training or signs to direct traffic and assessed a \$2,800 fine.

Also in December, a worker repairing a heating and cooling system damaged by the storm was found dead in a crawlspace below a home in Ventnor. That led to an investigation, but that death was determined to be from natural causes, Dixon-Roderick said.

Several contractors said the violations they were accused of were either minor or unfair. They also questioned why they were singled out when a number of other companies nearby at the same time were operating in the same way or were even less stringently following the law.

The Press contacted most of the companies who received violations for Sandy-related work and who had publicly available phone numbers. Several did not return phone calls, and others that did declined to comment because they feared reprisal by OSHA investigators.

"I don't want to exacerbate the situation," said Leo White, owner of Murph Construction North Inc., based in Westfield, Union County, who was cited at a job site in Long Beach Township in February and ultimately settled to pay a \$1,400 fine.

One of the violations was for work being done at Holiday Inn Express on the Black Horse Pike in Egg Harbor Township's West Atlantic City section, which was damaged by Sandy. Inspectors cited the hotel franchise owner, Picasso's Inc., with four different safety violations, including improperly marked fire extinguishers and cleaning chemicals. The company agreed to pay a \$4,900 fine.

Michael DiFrancesco, chief operating officer of Picasso's, said that inspection in January stemmed from a complaint from a former employee, and OSHA's records also indicate that they received a complaint.

"They just didn't show up on my doorstep," DiFrancesco said of the inspectors. "This all happened because of a disgruntled employee who quit, and he called everybody in the world."

DiFrancesco did not, however, criticize the inspectors.

"They were very professional," he said. "They weren't out there doing damage or trying to cause problems. They were there for more of a 'Let's see what happened,' type thing."

Other company representatives said they understood why the department was investigating and why that is important.

"They're there for our safety and our employees' safety," said Fuernisen. "I have no problem following their rules and everything."

But they also complained that when it comes to their investigations, there are no warnings, no matter how seemingly minor the issue.

"They don't say, 'Can you fix this and we'll be back tomorrow?'" DiFrancesco said. "When they see it, that's it."

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this transmission is intended solely for the use of the individual(s) or entities to which the e-mail is addressed. If you are not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that you are prohibited from reviewing, retransmitting, converting to hard copy, copying, disseminating, or otherwise using in any manner this e-mail or any attachments to it. If you have received this message in error, please notify the sender by replying to this message and delete it from your computer.

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**Subject:** RE: COuld you come for part of this meeting????  
**Date:** Thursday, June 13, 2013 5:22:27 PM

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**[South Jersey firms facing OSHA fines from Sandy repair jobs - pressofAtlanticCity.com: Breaking](#)**

## News

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In November, a 35-foot tree fell and killed an employee with Garden State Tree & Lawn LLC, of Pittstown, who was cutting it down in Colts Neck, Monmouth County. Inspectors said the company did not provide its employees with a safe working environment, and the company agreed to pay a \$1,680 fine.

In December, workers from Glenside Equipment Co., of Jackson Township, were removing curbside debris in Brick Township and directing traffic around the closed eastbound lane when one worker was hit and killed by an SUV. Inspectors said the employees did not have proper training or signs to direct traffic and assessed a \$2,800 fine.

Also in December, a worker repairing a heating and cooling system damaged by the storm was found dead in a crawlspace below a home in Ventnor. That led to an investigation, but that death was determined to be from natural causes, Dixon-Roderick said.

Several contractors said the violations they were accused of were either minor or unfair. They also questioned why they were singled out when a number of other companies nearby at the same time were operating in the same way or were even less stringently following the law.

The Press contacted most of the companies who received violations for Sandy-related work and who had publicly available phone numbers. Several did not return phone calls, and others that did declined to comment because they feared reprisal by OSHA investigators.

“I don’t want to exacerbate the situation,” said Leo White, owner of Murph Construction North Inc., based in Westfield, Union County, who was cited at a job site in Long Beach Township in February and ultimately settled to pay a \$1,400 fine.

One of the violations was for work being done at Holiday Inn Express on the Black Horse Pike in Egg Harbor Township’s West Atlantic City section, which was damaged by Sandy. Inspectors cited the hotel franchise owner, Picasso’s Inc., with four different safety violations, including improperly marked fire extinguishers and cleaning chemicals. The company agreed to pay a \$4,900 fine.

Michael DiFrancesco, chief operating officer of Picasso’s, said that inspection in January

stemmed from a complaint from a former employee, and OSHA's records also indicate that they received a complaint.

"They just didn't show up on my doorstep," DiFrancesco said of the inspectors. "This all happened because of a disgruntled employee who quit, and he called everybody in the world."

DiFrancesco did not, however, criticize the inspectors.

"They were very professional," he said. "They weren't out there doing damage or trying to cause problems. They were there for more of a 'Let's see what happened,' type thing."

Other company representatives said they understood why the department was investigating and why that is important.

"They're there for our safety and our employees' safety," said Fuernisen. "I have no problem following their rules and everything."

But they also complained that when it comes to their investigations, there are no warnings, no matter how seemingly minor the issue.

"They don't say, 'Can you fix this and we'll be back tomorrow?'" DiFrancesco said. "When they see it, that's it."

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**From:** [Hughes, Chip \(NIH/NIEHS\) \[E\]](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: COuld you come for part of this meeting????  
**Date:** Thursday, June 13, 2013 8:28:54 PM

---

Yes let's all talk. I'd include Jim and Deborah too. A telecon Fri or Monday??

Sent from Chip's BlackBerry 10 smartphone.

**From:** Berkowitz, Deborah - OSHA  
**Sent:** Thursday, June 13, 2013 8:19 PM  
**To:** Hughes, Chip (NIH/NIEHS) [E]  
**Subject:** Re: COuld you come for part of this meeting????

Glad it worked out--sounded like a good conference, Do you want me on a call too? Sorry--thought this was for Laura.

----- Original Message -----

**From:** Hughes, Chip (NIH/NIEHS) [E] <[hughes3@niehs.nih.gov](mailto:hughes3@niehs.nih.gov)>  
**To:** Kenny, Laura - OSHA  
**Cc:** Berkowitz, Deborah - OSHA  
**Sent:** Thu Jun 13 18:28:28 2013  
**Subject:** Re: COuld you come for part of this meeting????

I think it would be important that we at least "coordinate " to assure that there's no obvious overlap in funding. Can we do a call before Thurs.? The safety culture conference was awesome. Thanks for getting David to come.

Sent from Chip's BlackBerry 10 smartphone.

**From:** Kenny, Laura - OSHA  
**Sent:** Thursday, June 13, 2013 5:22 PM  
**To:** Hughes, Chip (NIH/NIEHS) [E]  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** RE: COuld you come for part of this meeting????

Thanks, Chip. This is helpful. Should I be prepared to address anything? Thanks.

Laura

---

**From:** Hughes, Chip (NIH/NIEHS) [E] [<mailto:hughes3@niehs.nih.gov>]  
**Sent:** Thursday, June 13, 2013 5:17 PM  
**To:** Kenny, Laura - OSHA  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** RE: COuld you come for part of this meeting????

Here is a summary of the proposed awards for \$1,750,000.

We would love to have someone from OSHA join us on Thursday at UBC.

UMDNJ-SPH will continue to provide outreach to organizations in NJ and NY. UMDNJ will provide an expanded

10-hour OSHA Construction (OSHA 10+) training for volunteers, public works, and others who have an active role in the response and recovery to disasters such as Superstorm Sandy. UMDNJ will provide a 4-hour disaster safety awareness training for workers, UMDNJ will collaborate with NYCOSH and the World Cares Center in NYC to provide one 21-hour train-the-trainer program for 10 individuals who will subsequently conduct 4-hour disaster safety clean-up and mold remediation training. UMDNJ will provide one 14-hour mold awareness and safety procedures module for a train-the-trainer program with and for members of the International Chemical Workers Union Council. NYCOSH will work with World Cares Center and UMDNJ to develop a 3 day (21 hour) train-the-trainer curriculum dealing with safety and health of muck and gut operations for the staff of World Cares Center and a 4-hour course for volunteers dealing with the safety and health issues of muck and gut operations. The World Cares Center will collaborate with UMDNJ-SPH and NY COSH to develop a three-day (21-hour) train-the-trainer course in mold clean-up and remediation. MDB, Inc. (National Clearinghouse) will provide outreach services for the NJ/NY Center.

\$400,000

NYCOSH; World Cares Center, MDB Inc., ICWUC; ALIGN; NYC Central Labor College; Long Island Federation of Labor; NYC Environmental Justice Alliance

The ICWU program will reach 1,620 Muck, Gut, and Mold remediation workers and volunteers in 108 sessions (4,860 contact hours), the trainer development class will have 22 trainers in 3 classes (880 contact hours and most trainer will take at least 2 classes). In addition the web based program will reach an average of 30 people per week for approximately 40 weeks in the first year (20 minutes average) for an additional 400 web based contact hours. Over the last 25 years, the ICWU Center and its union Consortium has built a nationally recognized HAZMAT training program specializing in chemical emergency response programs to protect collateral duty emergency responders. The Consortium members are: ICWU, IAM, UFCW, Coalition of Black Trade Unionists, AFT, American Federation of Government Employees. Our Consortium partner, CBTU will delivering some of these awareness classes as Worker/ Community Disaster Preparedness programs.

Local Sandy training and outreach in New Jersey (primarily Ocean, Atlantic and Cape May Counties)

\$350,000

ICWU; AFGE; AFT; CBTU; IAMAW; IAFF; MDB Inc.; World Cares Center; NY Cares; CSEA; UMDNJ; Washington AmeriCorps; TNEC; Cape May County NJ; NLC; SEIU; IBT; NJ WEC

THE USW program will Certify Bilingual OSHA Trainers for Union and Community Organizations in NY-NJ. Producing a group of trained, bilingual OSHA certified trainers. Bilingual Train-the-Trainer on Mold and Muck & Gut. TMC's proposed program will conduct two additional week-long train-the-trainer courses to develop bilingual trainers for MRNY and NJ Communities United. Direct OSHA 10-hr training for Spanish-speaking Day Laborers. Direct Health and Safety Training for NY-NJ residents and organizations in need. Working with the area staff of the WETP National Clearinghouse as well as the NJ Work Environment Council, a NJ-based labor-environment coalition of 70 unions and environmental groups, we will fulfill as many training requests as possible on the widest range of courses -- from back-of-the-truck presentations on mold to 40-hour emergency response courses.

\$300,000

New Labor; MDB Inc.; Make the Road New York; NJ Communities United; National Day Laborer Organizing Network (NDLON); IBT 237; Center for the Biology of Natural Systems; Tony Mazzocchi Center; Work Environment council

The Umass- Lowell New England Consortium will be engaging TNEC/CSEA trainers in efforts proposed to be coordinated by the International Chemical Workers Union Center for Worker Health & Safety Education to develop and modify mold curriculum within muck and gut training and to hold a training of trainers to ensure competency in delivering this curriculum in the most effective manner under disaster conditions and settings. ) CSEA members are the cleaners, janitors, laborers and public works employees that are called up to operate, maintain and clean up the physical plant where state and local government operations take place. capacity to have peer-trainers provide high quality and relevant health and safety training to CSEA members who are currently engaged in or may be engaged in such activities. Work with MDB, Inc. to help facilitate NIEHS WETP coordination of Hurricane Sandy

related recovery and rebuilding health and safety efforts, and efforts to ensure resilience in preparing for potential future disasters. Provide a permit required confined space train-the-trainer on Long Island focused on CSEA members from New York City, Long Island and other Sandy affected areas.

\$200,000

MDB Inc.; CSEA

Dillard University will work closely with these environmental justice (WEACT, NJEJA) and training organizations (CBTU) to: (1) assist in the outreach and recruitment of the selected target population for training activities, and (2) build the capacity of these organizations to respond to future threats. The training plan includes Train-the-Trainer and Worker Health and Safety courses that will be used to train instructors. Course materials will be distributed including those adapted specifically in response to Hurricane Sandy. By the end of the first year, we will have trained eighty (80) residents, one hundred and thirty (130) volunteers, two hundred and seventy (270) minority and immigrant workers, and forty (40) business owners. We will also have trained community-based organizations to develop their capacity to respond to this and future disasters and react to the ongoing threat. This work creates a large cadre of trained people and builds a pipeline for the continuation of training through the community-based organizations. Even when our project is complete, community-based organizations will be able to continue the training.

\$200,000

WEACT for Environmental Justice of Manhattan, NY; the Coalition of Black Trade Unions; New Jersey Environmental Justice Leadership Alliance

THE SEIU Training Fund will develop Health and Safety Awareness for Recovery Work (Muck and Gut) Health and safety awareness training related to the recovery and clean up after Hurricane Sandy for workers and volunteers (including occupants) doing muck, gut and other cleanup activities. 2. Building Health and Safety Resilience and Preparing for Future Disasters. target audiences for this 4-8 hour training are union members and leaders, front-line workers and supervisors and community members. This training will be aimed at organizations with some experience with disaster preparedness, but lacking health and safety and front-line involvement. 3. Introduction to Health and Safety Resilience and Preparing for Future Disasters. target audiences for this 1-2 hour training are union members and leaders, front-line workers and supervisors and community members at organizations just beginning to understand the need for resiliency and preparedness.

\$150,000

MDB, Inc.; 1199 SEIU United Health; Episcopal Health Services, Inc (letters of support)

The IUOE Training Fund will develop Community-based training. The NTF will partner with IUOE local unions in the FEMA declared major disaster states to offer its members and members of the community awareness training on mold and generator hazards, as well as other hazards the community is facing as a result of Hurricane Sandy. 2. Training for underserved populations. The NTF will provide two 10-hour OSHA Construction Industry Outreach courses and two 2-hour generator and power distribution hazards courses to an underserved population in the FEMA declared major disaster states. 3. Build an alliance with the West Virginia Army National Guard (WVARNG) to have a point of contact (POC) at the NTF that they can call upon when they are deployed to a disaster site as they have been during Hurricane Sandy. The Alliance will also create generator and power distribution hazards training and deliver said training to WVARNG members, operating engineers, and conduct community outreach. 4. Create a computer app to train on mold remediation to be made available to all cleanup participants. The app will be a cross-platform for Android/iPhones/iPads or other mobile devices and web-based for traditional computers. The NTF's goal with this innovative product is to provide end users that typically are not able to take advantage of training with a means of easily accessing the knowledge of persons with years of experience and training available to traditional workers.

\$150,000

West Virginia Army National Guard

From: Kenny, Laura - OSHA [<mailto:Kenny.Laura@dol.gov>]  
Sent: Thursday, June 13, 2013 4:18 PM  
To: Hughes, Chip (NIH/NIEHS) [E]  
Cc: Berkowitz, Deborah - OSHA  
Subject: FW: COuld you come for part of this meeting????

Sorry, Chip for my delayed response. I have been running in and out of the office and so again my apologies for the delay. Just so I am clear, who are the supplemental awardees? Coordination is a good idea. Let me run this by Bob and is there anything in particular you want me to cover/address?  
Thanks, Chip.

Laura

---

From: Hughes, Chip (NIH/NIEHS) [E] [<mailto:hughes3@niehs.nih.gov>]  
Sent: Friday, June 07, 2013 6:02 PM  
To: Kenny, Laura - OSHA  
Cc: Berkowitz, Deborah - OSHA  
Subject: COuld you come for part of this meeting????

We are planning a meeting for our supplemental awardees to support proposed training activities in response to Superstorm Sandy. I wanted to give you a heads-up that we are planning a coordination kickoff meeting in New York City on Thursday June 20th from 10 am to 3 PM at the United Brotherhood of Carpenters Training Center. The address is 395 Hudson St, NY, NY 10014, but use the side entrance on Clarkson St. And the meeting room is on the 2nd floor.

Chip

From: Kenny, Laura - OSHA [<mailto:Kenny.Laura@dol.gov>]  
Sent: Tuesday, May 07, 2013 11:36 AM  
To: Hughes, Chip (NIH/NIEHS) [E]; John Morawetz; jssagi@yahoo.com<<mailto:jssagi@yahoo.com>>  
Subject: OSHA enforcement in NJ

South Jersey firms facing OSHA fines from Sandy repair jobs - [pressofatlanticcity.com](http://www.pressofatlanticcity.com): Breaking News  
<<http://www.pressofatlanticcity.com/>>

South Jersey firms facing OSHA fines from Sandy repair jobs

By LEE PROCIDA, Staff Writer | Posted: Sunday, May 5, 2013 12:01 am

Federal inspectors have assessed at least 26 companies with a total of \$110,000 in fines for unsafe workplaces in New Jersey shore towns while cleaning up and repairing damage from Hurricane Sandy, an analysis of U.S. Department of Labor records shows.

The department's Occupational Safety and Health Administration has documented investigations of more than 50 storm-related job sites in New Jersey's coastal communities during the past six months since Sandy made landfall. About half of those cases resulted in no violations, while the other half found allegedly serious safety problems, the analysis by The Press of Atlantic City found.

Most violations were concentrated on Long Beach Island, where 12 different contractors were cited in Long Beach Township, Beach Haven and Ship Bottom. Other communities where more than one violation occurred were Longport, Stafford Township, Spring Lake and Seaside Park.

The Press obtained the records through a Freedom of Information Act request and by reviewing public information on the OSHA.gov<<http://OSHA.gov>> website.

Most contractors, landscaping companies and other establishments have disputed these allegations, which are frequently related to exposing workers to fall hazards and not providing employees with legally required training or equipment.

OSHA enforces the Occupational Safety and Health Act of 1970 and other applicable laws. Its investigators have jurisdiction over most private sector workplaces in New Jersey.

Many of the companies fined for Sandy-related work in New Jersey have already settled with the government, often halving the initial fine amounts. Other, more recent cases are still being negotiated or are in the appeal process. Chuck Fuernisen, owner of Egg Harbor Township-based C.H. Fuernisen Construction, said he plans to challenge a \$5,200 fine his company received in April because a worker was not wearing a safety harness while doing work at a storm-damaged home in Longport.

"I'm appealing it for sure," Fuernisen said. "I'm always safety conscious. My guys, I run them through every safety aspect for everything that we do."

In the immediate aftermath of the storm, some business leaders and elected officials were outraged that OSHA inspectors were at job sites on Long Beach Island and other shore towns, saying they were slowing the recovery. OSHA officials said that maybe a couple dozen inspectors were sent to storm-damaged areas in the weeks after the storm, and that their role for at least the first month was to consult and advise utility companies and contractors in charge of recovery efforts.

"At the early stages, we provided mainly technical assistance, as opposed to enforcement, and then we segued steadily into enforcement mode," said Kris Hoffman, area director of OSHA's Parsippany office.

Also, most of the investigations that resulted in violations during November, in the weeks immediately following the Oct. 29 storm, were for projects that existed prior to Sandy.

Of the alleged safety violations by companies doing work unrelated to the storm but in storm-damaged towns, OSHA inspectors have levied at least another \$80,000 in fines during the past six months.

Jon Nelke, owner of J Nelke Roofing Inc., was cited for two different allegedly unsafe job sites in Long Beach Township, one storm-related and one not. He reached a settlement with the department for the Sandy-related violation, an alleged fall hazard, and agreed to pay a \$2,400 fine that was reduced from \$4,800.

He also reached a settlement to pay \$3,360 for another fall hazard violation inspectors reported on Nov. 14.

"I'm going to be paying \$250 a month for the next two ... years," Nelke said.

Paula Dixon-Roderick, area director for OSHA's Marlton Area Office, said the influx of OSHA workers to storm areas was a standard response to an emergency, just like compliance officers were sent to Louisiana in the aftermath of Hurricane Katrina.

She also said that her office normally operates with about 16 inspectors to cover 10 counties, including all the coastal counties, and only a handful more were brought in from outside the area.

"I'm always faced with accomplishing our mission with limited resources," she said. "Nothing has been changed, we're just allocating our resources to where the most hazards exist."

While these inspections were criticized by some, Hoffman and Dixon-Roderick said the point was to keep other people from dying after the storm.

OSHA investigations start when either an investigator sees hazardous activity from a public right-of-way, a complaint is made, or an accident actually occurs. Of the Sandy-related violations in New Jersey, only a few stemmed directly from accidents.

In November, a 35-foot tree fell and killed an employee with Garden State Tree & Lawn LLC, of Pittstown, who was cutting it down in Colts Neck, Monmouth County. Inspectors said the company did not provide its employees with a safe working environment, and the company agreed to pay a \$1,680 fine.

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Several contractors said the violations they were accused of were either minor or unfair. They also questioned why they were singled out when a number of other companies nearby at the same time were operating in the same way or were even less stringently following the law.

The Press contacted most of the companies who received violations for Sandy-related work and who had publicly available phone numbers. Several did not return phone calls, and others that did declined to comment because they feared reprisal by OSHA investigators.

"I don't want to exacerbate the situation," said Leo White, owner of Murph Construction North Inc., based in Westfield, Union County, who was cited at a job site in Long Beach Township in February and ultimately settled to pay a \$1,400 fine.

One of the violations was for work being done at Holiday Inn Express on the Black Horse Pike in Egg Harbor Township's West Atlantic City section, which was damaged by Sandy. Inspectors cited the hotel franchise owner, Picasso's Inc., with four different safety violations, including improperly marked fire extinguishers and cleaning



chemicals. The company agreed to pay a \$4,900 fine.

Michael DiFrancesco, chief operating officer of Picasso's, said that inspection in January stemmed from a complaint from a former employee, and OSHA's records also indicate that they received a complaint.

"They just didn't show up on my doorstep," DiFrancesco said of the inspectors. "This all happened because of a disgruntled employee who quit, and he called everybody in the world."

DiFrancesco did not, however, criticize the inspectors.

"They were very professional," he said. "They weren't out there doing damage or trying to cause problems. They were there for more of a 'Let's see what happened,' type thing."

Other company representatives said they understood why the department was investigating and why that is important.

"They're there for our safety and our employees' safety," said Fuernisen. "I have no problem following their rules and everything."

But they also complained that when it comes to their investigations, there are no warnings, no matter how seemingly minor the issue.

"They don't say, 'Can you fix this and we'll be back tomorrow?'" DiFrancesco said. "When they see it, that's it."

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**From:** [Galassi, Thomas - OSHA](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Fw:Thursday  
**Date:** Tuesday, June 10, 2014 2:01:26 PM

---

Thank you!

-----Original Message-----

From: Berkowitz, Deborah - OSHA  
Sent: Tuesday, June 10, 2014 1:13 PM  
To: Galassi, Thomas - OSHA  
Subject: Fw:Thursday

Fyi

---

From: Eric Frumin <[Eric.Frumin@changetowin.org](mailto:Eric.Frumin@changetowin.org)>  
Sent: Tuesday, June 10, 2014 1:09:59 PM  
To: Berkowitz, Deborah - OSHA  
Subject: RE: people for meeting on Thursday; conf call number

That's it, along with just a brief update on the application of the Sallman letter.

-----Original Message-----

From: Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
Sent: Tuesday, June 10, 2014 12:45 PM  
To: Eric Frumin  
Subject: RE: people for meeting on Thursday; conf call number

Can you send me the agenda:

Complaints

Targeting

?

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

-----Original Message-----

From: Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
Sent: Tuesday, June 10, 2014 12:39 PM  
To: Sloane, Walter - OSHA CTR  
Cc: Berkowitz, Deborah - OSHA  
Subject: people for meeting on Thursday; conf call number

Eric Frumin, CtW  
Peg Seminario, AFL-CIO  
Steve Sallman, USW  
Robyn Robbins, UFCW  
Chris Trahan, CPWR  
LaMont Byrd, IBT  
Mark Catlin, SEIU

Darius Sivin, UAW  
Denise Bowles, AFSCME

Others will be calling in by phone. I have already set up a conf call number myself, since I needed to send it out to the group.

Can you please send this information to anyone from OSHA or SOL who is calling in as well. I believe that Bob Kulick from Region 2 was a possible off-site participant.

877-336-1831

code: (b) (6)

The people calling in from our group will be Steve Yokich, UAW; Gail Bateson, Worksafe; and Fran Schreiber, Kazan law firm.

Thanks.

Eric

**From:** [Eric Frumin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Cc:** [Bill Borwegen](#); [Mark Catlin](#); [LaMont Byrd](#); [Patrick Morrison](#)  
**Subject:** Re: Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM  
**Date:** Monday, April 22, 2013 10:24:22 PM

---

Debbie:

I'm forwarding this to the folks at SEIU and IBT.

Also, Patrick Morrison has replaced Rich Duffy at the IAFF's H&S office.

Eric

[sent from my mobile - please excuse typos]

On Apr 17, 2013, at 11:55 AM, "Berkowitz, Deborah - OSHA"  
<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

Dear Colleagues,

Please join me on April 29th at 10:30 AM in the César E. Chávez Memorial Auditorium at the Department of Labor (200 Constitution Ave, NW) for a Workers Memorial Day program and ceremony as we honor workers across the Nation who have been killed or injured on the job and rededicate ourselves to protecting the health, safety and dignity of America's workforce.

I will be joined by Assistant Secretary of Labor for Mine Safety and Health Joseph Main and family members who have lost loved ones. A panel discussion will follow on the importance of safety and health protections for temporary and contingent workers. At the conclusion of the program in the auditorium, we will pay a visit to the memorial American Dogwood tree planted two years ago for a short ceremony and a moment of silence in memory of the workers who have lost their lives on the job.

Please RSVP to Jessica Douma (cc'd above). We hope to see you there.

David Michaels, PhD, MPH  
Assistant Secretary  
Occupational Safety and Health Administration  
United States Department of Labor

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Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000  
[<image001.png><image002.png>](#)  
[<image003.png>](#)

**From:** [Jackie Nowell](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Meeting on PSM in food plants  
**Date:** Thursday, January 24, 2013 2:47:18 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Julie Plavka will be joining us from IBT

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**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Thursday, January 24, 2013 2:45 PM  
**To:** Jackie Nowell  
**Subject:** RE: Meeting on PSM in food plants

In 2217. Do you have a minute for a quick phone call?

---

Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000



---

**From:** Jackie Nowell [<mailto:jnowell@ufcw.org>]  
**Sent:** Thursday, January 24, 2013 1:26 PM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Meeting on PSM in food plants

Where is the meeting?

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Thursday, January 03, 2013 3:45 PM  
**To:** Jackie Nowell  
**Subject:** RE: Meeting on PSM in food plants

Hi—Happy New Year. I set the meeting for January 25<sup>th</sup> at 1:30. Does that work?

---

Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000



---

**From:** Jackie Nowell [<mailto:jnowell@ufcw.org>]  
**Sent:** Wednesday, December 19, 2012 5:33 PM  
**To:** Berkowitz, Deborah - OSHA

**Subject:** RE: Meeting on PSM in food plants

thanks

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Wednesday, December 19, 2012 5:22 PM  
**To:** Jackie Nowell  
**Subject:** RE: Meeting on PSM in food plants

I think that would be fine—let me check with DEP

---

Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000



---

**From:** Jackie Nowell [<mailto:jnowell@ufcw.org>]  
**Sent:** Wednesday, December 19, 2012 4:45 PM  
**To:** Berkowitz, Deborah - OSHA  
**Cc:** Byrd Lamont ([LByrd@teamster.org](mailto:LByrd@teamster.org)); Belinda Thielen  
**Subject:** RE: Meeting on PSM in food plants

Not so good. Belinda is on vacation through the first week. How about the week of the 21<sup>st</sup>?

---

**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
**Sent:** Wednesday, December 19, 2012 4:41 PM  
**To:** Jackie Nowell  
**Subject:** Meeting on PSM in food plants

Jackie—I checked with our enforcement folks and the PSM folks, and I can pull a meeting together during the week of January 7<sup>th</sup>. Would the afternoon of the 8<sup>th</sup> or 9<sup>th</sup> work?

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Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000



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**From:** [Mark Catlin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: Meeting tomorrow  
**Date:** Wednesday, September 11, 2013 12:01:41 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Thanks Debbie,

I was planning to call in, as I have another meeting just before. However, I could see if I can change my schedule to attend in person, if that might be better.

Mark

Industrial Hygienist  
SEIU  
1800 Massachusetts Ave NW  
Washington, DC 20036  
(202) 730 - 7290  
(202) 436 - 0856 cell  
[mark.catlin@seiu.org](mailto:mark.catlin@seiu.org)

On Wed, Sep 11, 2013 at 10:59 AM, Berkowitz, Deborah - OSHA  
<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

Yes, SOL will be on the call. Will you be coming over or calling in?

---

Deborah Berkowitz

Senior Policy Advisor

Occupational Safety and Health Administration

[202-693-2000](tel:202-693-2000)



**From:** Mark Catlin [mailto:[mark.catlin@seiu.org](mailto:mark.catlin@seiu.org)]  
**Sent:** Wednesday, September 11, 2013 10:53 AM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** Re: Meeting tomorrow



Hi Debbie,

Yes, we support all of the unions being invited and involved. Has the SOL asked Extencicare for a list of their facilities represented by a union? The list Barbara provided is the best we have but they would know for certain.

I would also like to invited Eric Frumin, with CtW, to join Barbara and I on the call tomorrow. Will both OSHA and SOL staff be on the call ?

Is there any draft document we should review beforehand?

Thanks for setting up this call. We are looking forward to this meeting.

Mark

Industrial Hygienist

SEIU

1800 Massachusetts Ave NW

Washington, DC 20036

[\(202\) 730 - 7290](tel:(202)730-7290)

[\(202\) 436 - 0856](tel:(202)436-0856) cell

[mark.catlin@seiu.org](mailto:mark.catlin@seiu.org)

On Wed, Sep 11, 2013 at 10:35 AM, Berkowitz, Deborah - OSHA  
<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

Mark, Your wonderful Local union attorney sent us the list of unions at Extencicare.I noticed that UFCW , IBT and AFSCME have a few facilities. We would also like to consult with them. Would it be ok if I reached out to their health and safety folks and invited them tomorrow?

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**From:** [Mark Catlin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: Meeting tomorrow  
**Date:** Wednesday, September 11, 2013 10:53:35 AM

---

Hi Debbie,

Yes, we support all of the unions being invited and involved. Has the SOL asked Extencicare for a list of their facilities represented by a union? The list Barbara provided is the best we have but they would know for certain.

I would also like to invited Eric Frumin, with CtW, to join Barbara and I on the call tomorrow. Will both OSHA and SOL staff be on the call ?

Is there any draft document we should review beforehand?

Thanks for setting up this call. We are looking forward to this meeting.

Mark

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1800 Massachusetts Ave NW  
Washington, DC 20036  
(202) 730 - 7290  
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[mark.catlin@seiu.org](mailto:mark.catlin@seiu.org)

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<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

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**From:** [Barab\\_Jordan - OSHA](#)  
**To:** [Ortiz\\_M\\_Lucero - OSHA](#); [Berkowitz\\_Deborah - OSHA](#); [Michaels\\_David - OSHA](#)  
**Cc:** [Dougherty\\_Dorothy - OSHA](#)  
**Subject:** RE: MONDAY: DOL Holiday Open House  
**Date:** Monday, December 16, 2013 12:43:52 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.jpg](#)

They may have already been invited on others' lists.

**Jordan Barab**

**Deputy Assistant Secretary**  
 Occupational Safety and Health Administration  
 (202) 693-2000



**From:** Ortiz, M. Lucero - OSHA  
**Sent:** Monday, December 16, 2013 12:43 PM  
**To:** Berkowitz, Deborah - OSHA; Michaels, David - OSHA  
**Cc:** Barab, Jordan - OSHA; Dougherty, Dorothy - OSHA  
**Subject:** RE: MONDAY: DOL Holiday Open House

Hello Debbie:

The list below is what I submitted to OSEC after discussing it with David and asking everyone for their input. Seema was in charge of pairing down the lists from all agency submissions. OPE was in charge of sending out the invites. I will follow up with Seema.

Regards,

Lucero

Last Name	First Name	Title	Org
Labor			
Seminario	Peg	Director Safety and Health	AFL-CIO
Frumin	Eric	Health and Safety Director	Change to Win United Steelworkers/Tony Mazzocchi Center for Health, Safety and Environmental Education
Lessin	Nancy		International Brotherhood of Teamsters (IBT)
Byrd	Lamont		
Alexander	Darryl	Occup. S&H Coordinator Organizing/Field Services	American Fed. of Teachers (AFT) American Public Health Association (APHA)
Benajmin	Georges C.	Executive Director	SEIU United
Caitlan	Mark		

Frederick	James		Steelworkers (USW)
Sallman	Steve		United Steelworkers (USW)
Fendley	Anna		United Steelworkers (USW)
Heidorn	Dave	Manager, Government Affairs & Policy	American Society of Safety Engineers (ASSE)
Howard	Dr. John	Director	National Institute for Occupational Safety and Health (NIOSH)
Jones	Walter	Associate Director of Occupational Safety & Health	LiUNA
Legrande	Dave	Dir. Safety & Health	Communication Workers (CWA)
Mokadam	Dinkar	OSHA Specialist	Association of Flight Attendants (AFA-CWA)
Nowell	Jackie	Safety & Health Director	UFCW
O'Neil	Peter J.	Executive Director	American Industrial Hygiene Association (AIHA)
Robbins	Robyn	Asst. Director	UFCW
Rodriguez	Milly	H&S Specialist	AFGE
Emily	Spieler	Chair of Whistleblower Protection Advisory Committee (WPAC)	
Stafford	Pete	Bldg Construction Trades Dept/CPWR	Center to Protect Workers' Rights (CPWR)
Thorton	Jim	Chair of Maritime Advisory Committee for Occupational Safety and Health (MACOSH)	
Trahan	Chris		Center to Protect Workers' Rights (CPWR)
Trippler	Aaron	Director of Government Affairs	American Industrial Hygiene Association (AIHA)
White	Frank		
Witkowski	Chris	Director	Association of Flight Attendants (AFA-CWA)
Dwyer	Stephen		American Staffing Association (ASA)

---

**From:** Berkowitz, Deborah - OSHA  
**Sent:** Monday, December 16, 2013 12:22 PM  
**To:** Ortiz, M. Lucero - OSHA; Michaels, David - OSHA  
**Cc:** Barab, Jordan - OSHA; Dougherty, Dorothy - OSHA

**Subject:** RE: MONDAY: DOL Holiday Open House

Lucero, Last year we invited Peg, the Chris Witkowski, Daryl Alexander, Scott Schneider and others... did we forget this year?

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

?	?
?	

---

**From:** Ortiz, M. Lucero - OSHA  
**Sent:** Monday, December 16, 2013 12:06 PM  
**To:** Michaels, David - OSHA  
**Cc:** Barab, Jordan - OSHA; Dougherty, Dorothy - OSHA; Berkowitz, Deborah - OSHA  
**Subject:** FW: MONDAY: DOL Holiday Open House

Dear David:

In preparation for this afternoon's DOL holiday party, below is a list of the OSHA stakeholder RSVPs. The following folks have confirmed their attendance: Dave Heidorn, Frank White, Dr. John Howard, and Milly Rodriguez.

As you can see, several of the people on the OSHA list have sent their regrets as they are unable to attend due to work or personal travel. I reached out to all of these people and am just waiting to hear back from three of them (Benjamin, Murray and Trippler). At this point, their level of participation is unknown.

If this chart changes, I will share it with you prior to the event.

Regards,

Lucero

PS

Jim Thornton sends his regards.

RSVP	Last Name	First Name	Title	Org
YES	Michaels	David	Assistant Secretary	OSHA
YES	Barab	Jordan	Deputy Assistant Secretary	OSHA
YES	Dougherty	Dorothy	Deputy Assistant Secretary	OSHA
YES	Berkowitz	Debbie	Senior Policy Advisor	OSHA
YES	Ortiz	M. Lucero	<u>Chief of Staff</u>	OSHA
YES	Heidorn	Dave	Manager, Government Affairs	American Society of Safety Engineers (ASSE)
YES	White	Frank	Director	Mercer
YES	Howard	Dr. John	Director	National Institute for Occupational Safety and Health (NIOSH)
YES	Rodriguez	Milly	H&S Specialist	AFGE
	Benjamin	Georges C.	Executive Director	American Public Health Association (APHA)
	Murray	Linda Rae	Chair of the National Advisory Committee on	NACOSH

			Occupational Safety and Health (NACOSH)	
	Trippler	Aaron	Director of Government Affairs	American Industrial Hygiene Association (AIHA)
Regrets, unable to attend, sending Deputy General Counsel	Dwyer	Stephen	Director	American Staffing Association
Regrets, unable to attend	O'Neil	Paul	Former Director	ALCOA
Regrets, unable to attend	Spieler	Emily	Chair of Whistleblower Protection Advisory Committee (WPAC)	WPAC
Regrets, unable to attend	Thorton	Jim	Chair of Maritime Advisory Committee for Occupational Safety and Health (MACOSH)	MACOSH
Regrets, unable to attend	Satkowiak	Debra	Chief	DOJ ATF
Regrets, On travel	O'Neil	Peter J.	Executive Director	American Industrial Hygiene Association (AIHA)
Regrets, On travel	Frumin	Eric		
Regrets, On travel	Lessin	Nancy		
Regrets, On travel	Seabrook	Kathy	2013 President	American Society of Safety Engineers (ASSE)

---

**From:** Thornton, James [<mailto:James.Thornton@hii-co.com>]  
**Sent:** Monday, December 16, 2013 11:56 AM  
**To:** Ortiz, M. Lucero - OSHA  
**Subject:** RE: MONDAY: DOL Holiday Open House

And you as well. If you see Dr. Michaels, please give him my regards.

Jim

---

**From:** Ortiz, M. Lucero - OSHA [<mailto:Ortiz.M.Lucero@dol.gov>]  
**Sent:** Monday, December 16, 2013 10:11 AM  
**To:** Thornton, James  
**Subject:** EXT :RE: MONDAY: DOL Holiday Open House

Thanks Jim. Happy holidays from all of us at OSHA!

Best,

Lucero

---

**From:** Thornton, James [<mailto:James.Thornton@hii-co.com>]  
**Sent:** Monday, December 16, 2013 10:01 AM  
**To:** Ortiz, M. Lucero - OSHA  
**Subject:** RE: MONDAY: DOL Holiday Open House

Thank you, Lucero. Unfortunately, this is our final week of business prior to our Christmas shutdown schedule. I attempted a couple of times to RSVP, but the website only offers the option of accepting, or cancelling a previous acceptance.

I sincerely appreciate the invitation, and wish that I could attend. I know that it will be a wonderful event.

Jim Thornton

---

**From:** Ortiz, M. Lucero - OSHA [<mailto:Ortiz.M.Lucero@dol.gov>]  
**Sent:** Friday, December 13, 2013 5:11 PM  
**To:** Thornton, James  
**Subject:** EXT :MONDAY: DOL Holiday Open House

Dear Jim:

I hope this message finds you well.

I am sharing the invitation below to the Secretary's Holiday Open House in case you have not yet seen it. The Secretary had previously sent this invitation to you but we have not seen your RSVP. You can still RSVP at <http://webapps.dol.gov/DOLEvents/Event/View/231/Secretary-Perezs-2013-Holiday-Party>

We hope you'll be able to attend. Have a great weekend!

Best,

Lucero

**M. Lucero Ortiz**  
Chief of Staff  
Occupational Safety and Health Administration (OSHA)  
U.S. Department of Labor  
[Ortiz.M.Lucero@dol.gov](mailto:Ortiz.M.Lucero@dol.gov)  
(202) 693-2227

 Please consider the environment before printing this e-mail.



[Event Invitation - Complete text follows.](#)

**Please join me for the 2013 DOL Holiday Open House.**

**Monday, December 16, 2013, from 4:00 p.m. to 6:00 p.m.**

U.S. Department of Labor  
Secretary's Conference Room  
200 Constitution Avenue, N.W.  
Washington, DC 20210

*Enter at 3rd and C Streets door*

Please RSVP at  
<http://webapps.dol.gov/DOLEvents/Event/View/231/Secretary-Perezs-2013-Holiday-Party>

This invitation is non-transferable.

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Non-responsive

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

**From:** Rick Engler [<mailto:rengler@njwec.org>]

**Sent:** Tuesday, May 07, 2013 10:10 AM

**To:** Kulick, Robert - OSHA

**Cc:** Michaels, David - OSHA; Barab, Jordan - OSHA; [Beth.Slavet@dol.gov](mailto:Beth.Slavet@dol.gov); Jones, Patricia - OSHA; Kenny, Laura - OSHA; Fred Potter; Lamont Byrd; Leo Gerard; Gary Beevers; Kim Nibarger; John Shinn; Michael Wright; Frumin, Eric; [pseminar@afcio.org](mailto:pseminar@afcio.org); Tom O'Connor; Dave Foster; [Brendan.Bell@lautenberg.senate.gov](mailto:Brendan.Bell@lautenberg.senate.gov); Connolly, Hal (Menendez); Laverne Alexander; [vincent.sarubbi@mail.house](mailto:vincent.sarubbi@mail.house); [sarah.jones@mail.house.gov](mailto:sarah.jones@mail.house.gov); Chris Gaston; Doc Doherty; John Pajak; David Tykulsker

**Subject:** OSHA 11(c) Complaint by [Redacted]

Environment Council

To: Robert Kulick, Regional Administrator, Occupational Safety and Health  
Administration, Region 2

Dear Mr. Kulick:

Please see the attached WEC correspondence concerning the OSHA Section 11(c) whistle  
blower complaint by <sup>(b) (6)</sup> [REDACTED]  
[REDACTED] e have also  
sent you a copy via US Postal Service.

Thank you for your consideration.

Rick Engler  
Director  
NJ WEC

--

**JOIN US on Friday, June 7, 6:30 PM, for WEC's Annual Awards Reception, Rutgers Labor Education  
Center, New Brunswick.** Be an event sponsor or place an ad in the on-line ad journal [here](#). Purchase  
tickets [online](#) or by [mail](#). Help honor: **Noel Christmas**, Utility Workers Union; **Ed Lloyd**, Columbia  
University; **Adrienne Markowitz**, WEC/NJEA Healthy Schools Program; **Nicky Sheats**,  
NJ Environmental Justice Alliance; **Intl. Chemical Workers Center for Worker Health & Safety Education  
& United Steelworkers Tony Mazzocchi Center**, Hurricane Sandy response teams.

***Rick Engler, Director***

**New Jersey Work Environment Council**

**On the web at [www.njwec.org](http://www.njwec.org)**

**142 West State St. - Third Floor**

**Trenton, NJ 08608**

**Telephone: (201) 389-3189 (with forward to cell when I am not at this number)**

**From:** [Eric Frumin](mailto:Eric.Frumin@dol.gov)  
**To:** [Berkowitz, Deborah - OSHA](mailto:Deborah.Berkowitz@dol.gov); [Sloane, Walter - OSHA CTR](mailto:Walter.Sloane@dol.gov)  
**Subject:** RE: people for meeting on Thursday; conf call number  
**Date:** Tuesday, June 10, 2014 12:46:12 PM

---

Yes, we are going to at least try to do that as a group, at 2:15.  
ef

-----Original Message-----

From: Berkowitz, Deborah - OSHA [<mailto:Deborah.Berkowitz@dol.gov>]  
Sent: Tuesday, June 10, 2014 12:45 PM  
To: Eric Frumin; Sloane, Walter - OSHA CTR  
Subject: RE: people for meeting on Thursday; conf call number

Eric-- have them call up to our offices and we will get them for the meeting.

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

-----Original Message-----

From: Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
Sent: Tuesday, June 10, 2014 12:39 PM  
To: Sloane, Walter - OSHA CTR  
Cc: Berkowitz, Deborah - OSHA  
Subject: people for meeting on Thursday; conf call number

Eric Frumin, CtW  
Peg Seminario, AFL-CIO  
Steve Sallman, USW  
Robyn Robbins, UFCW  
Chris Trahan, CPWR  
LaMont Byrd, IBT  
Mark Catlin, SEIU  
Darius Sivin, UAW  
Denise Bowles, AFSCME

Others will be calling in by phone. I have already set up a conf call number myself, since I needed to send it out to the group.

Can you please send this information to anyone from OSHA or SOL who is calling in as well. I believe that Bob Kulick from Region 2 was a possible off-site participant.

877-336-1831  
code: 283 1647

The people calling in from our group will be Steve Yokich, UAW; Gail Bateson, Worksafe; and Fran Schreiber, Kazan law firm.

Thanks.  
Eric



**From:** [Sloane, Walter - OSHA CTR](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: people for meeting on Thursday; conf call number  
**Date:** Tuesday, June 10, 2014 12:45:18 PM

---

Hi Debbie,

I'm taking the list to Timothy Dean in Security.

Walter C. Sloane, Jr.  
Executive Secretary  
Occupational Safety and Health Administration  
200 Constitution Ave., NW  
S-2315  
Washington, DC 20210  
(202) 693-2016

-----Original Message-----

From: Berkowitz, Deborah - OSHA  
Sent: Tuesday, June 10, 2014 12:45 PM  
To: Frumin, Eric; Sloane, Walter - OSHA CTR  
Subject: RE: people for meeting on Thursday; conf call number

Eric-- have them call up to our offices and we will get them for the meeting.

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

-----Original Message-----

From: Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
Sent: Tuesday, June 10, 2014 12:39 PM  
To: Sloane, Walter - OSHA CTR  
Cc: Berkowitz, Deborah - OSHA  
Subject: people for meeting on Thursday; conf call number

Eric Frumin, CtW  
Peg Seminario, AFL-CIO  
Steve Sallman, USW  
Robyn Robbins, UFCW  
Chris Trahan, CPWR  
LaMont Byrd, IBT  
Mark Catlin, SEIU  
Darius Sivin, UAW  
Denise Bowles, AFSCME

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code: 283 1647

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Thanks.  
Eric



**From:** [Eric Frumin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: people for meeting on Thursday; conf call number  
**Date:** Tuesday, June 10, 2014 1:10:36 PM

---

That's it, along with just a brief update on the application of the Sallman letter.

-----Original Message-----

From: Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]  
Sent: Tuesday, June 10, 2014 12:45 PM  
To: Eric Frumin  
Subject: RE: people for meeting on Thursday; conf call number

Can you send me the agenda:  
Complaints  
Targeting  
?

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

-----Original Message-----


From: Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
Sent: Tuesday, June 10, 2014 12:39 PM  
To: Sloane, Walter - OSHA CTR  
Cc: Berkowitz, Deborah - OSHA  
Subject: people for meeting on Thursday; conf call number

Eric Frumin, CtW  
Peg Seminario, AFL-CIO  
Steve Sallman, USW  
Robyn Robbins, UFCW  
Chris Trahan, CPWR  
LaMont Byrd, IBT  
Mark Catlin, SEIU  
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Denise Bowles, AFSCME

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877-336-1831

code: 

The people calling in from our group will be Steve Yokich, UAW; Gail Bateson, Worksafe; and Fran Schreiber, Kazan law firm.

Thanks.

Eric

**From:** [Chris Trahan](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: posting an osha ppt  
**Date:** Monday, September 23, 2013 6:22:52 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Thanks!

Chris

On Sep 23, 2013, at 5:04 PM, "Berkowitz, Deborah - OSHA" <[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

Sure all good

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000  
[<image001.png><image002.png>](#)  
[<image003.png>](#)

---

**From:** Chris Trahan [<mailto:CTrahan@cpwr.com>]  
**Sent:** Monday, September 23, 2013 3:14 PM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** posting an osha ppt

Hi Debbie,

Scott provided the attached. It is excellent. Is there any reason we shouldn't post it on [www.elcosh.org](http://www.elcosh.org) and/or [www.silica-safe.org](http://www.silica-safe.org) ? I have not seen it posted on OSHA's page, so I thought I would check with you before we slammed it up.

Thanks,

Chris

---

**From:** Bruce Lippy  
**Sent:** Monday, September 23, 2013 3:06 PM  
**To:** Chris Trahan  
**Subject:** FW: BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Chris, this PPT from OSHA does a good job explaining the proposed rule. Okay to post it on eLCOSH or do we want to hold everything on silica until the Building Trades have formally commented?

---

**From:** Scott Schneider [<mailto:schneider@lhsfna.org>]

**Sent:** Monday, September 23, 2013 2:12 PM  
**To:** Pete Stafford; Brian Loftus, MOST; Bridget Connors, MOST; Caryn Halifax, BAC; Charles Austin, SMOHIT; Deven Johnson, OPCMIA; Donna Mortensen, OPCMIA; Gerard Scarano (Roberta Haut); Gerard Scarano, BAC; Jamie Becker; Jim Tomaseski, IBEW; John Barnhard, Roofers; Julie Plavka, IBT; Kevin Flynn, BAC; LaMont Byrd, Teamsters; Laurie Shadrick, UA; Lee Worley, Ironworkers; Mark Garrett, Boilermakers; Mark Mullins, EIWPF; Sarah Coyne, IUPAT; Steven L. Rank, Ironworkers; Terry Lynch, Asbestos Workers; Tom Haun, Asbestos Workers; Travis Parsons; Vicki Bor, Sherman Dunn; Walter A. Jones; Wayne Creasap, TAUC  
**Cc:** Chris Trahan; Vivian Foggo; Jim Platner; Eileen Betit; Bruce Lippy; Laura Welch; Pam Susi- Contact; Celia Voyles; Robin Baker  
**Subject:** RE: BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Attached is an OSHA PowerPoint about the proposed rule.

---

**From:** Pete Stafford [<mailto:PStafford@cpwr.com>]  
**Sent:** Monday, September 23, 2013 1:54 PM  
**To:** Brian Loftus, MOST; Bridget Connors, MOST; Caryn Halifax, BAC; Charles Austin, SMOHIT; Deven Johnson, OPCMIA; Donna Mortensen, OPCMIA; Gerard Scarano (Roberta Haut); Gerard Scarano, BAC; Jamie Becker; Jim Tomaseski, IBEW; John Barnhard, Roofers; Julie Plavka, IBT; Kevin Flynn, BAC; LaMont Byrd, Teamsters; Laurie Shadrick, UA; Lee Worley, Ironworkers; Mark Garrett, Boilermakers; Mark Mullins, EIWPF; Sarah Coyne, IUPAT; Scott Schneider; Steven L. Rank, Ironworkers; Terry Lynch, Asbestos Workers; Tom Haun, Asbestos Workers; Travis Parsons; Vicki Bor, Sherman Dunn; Walter A. Jones; Wayne Creasap, TAUC  
**Cc:** Chris Trahan; Vivian Foggo; Jim Platner; Eileen Betit; Bruce Lippy; Laura Welch; Pam Susi- Contact; Celia Voyles; Robin Baker  
**Subject:** BCTD Safety & Health Committee and Silica Sub-Committee October Mtgs.

Dear BCTD Safety & Health Committee,

Per our discussion at last week's BCTD Safety & Health Committee meeting, it was decided to devote the month of October to work on our position/comments in response to OSHA's proposed silica standard. While the Silica Sub-Committee, chaired by BAC's Gerry Scarano, will take the lead in coordinating our efforts, all Committee members will be notified of meetings and encouraged to participate in them. This has been a long time in coming, and we want to be sure that everyone with an interest has an opportunity to be heard and participate in the journey as we go down the OSHA rulemaking path.

Chairman Scarano has scheduled two Silica Sub-Committee meetings for the month of October, as follows:

Wednesday, October 9, 10 AM to 12 Noon; and  
Wednesday, October 23, 10 AM to 12 Noon.

Both meetings will be held at BAC Headquarters, 620 F Street, N.W. A call-in number will be sent prior to the meeting for those of you who would like to participate but won't be able to attend.

Please confirm your attendance with Celia, who is copied on this email, and let me know if you have any questions or would like to discuss.

We also agreed to push back the quarterly meeting with the employer associations to November, to allow us time to focus on the silica standard and develop our position on various elements of the proposed rule. The joint BCTD Safety & Health Committee and Employer Association meeting is now scheduled for Thursday, November 7. I'll send the formal announcement to you and the employer associations in the coming days. As you know, most of these employer associations have joined together in a coalition to oppose the rule. We decided last week to have a discussion with our employers to openly share our views and concerns about the proposed rule, even though we recognize we'll probably agree to disagree on certain provisions of the proposal. Should be an interesting discussion. More to come.

Regards,  
Pete

**From:** [Eric Frumin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Presidential Proclamation  
**Date:** Sunday, April 27, 2014 3:46:39 PM

---

Sure, after you get back.  
Who is Bonita?  
Safe travels.

Nebraska, huh? Your old stomping grounds!  
ef

---

**From:** Berkowitz, Deborah - OSHA [mailto:[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)]  
**Sent:** Sunday, April 27, 2014 3:44 PM  
**To:** Eric Frumin  
**Subject:** Re: Presidential Proclamation

OK--lets chat. I'll be with Bonita and Tammy Miser out in Lincoln.

---

**From:** Eric Frumin <[Eric.Frumin@changetowin.org](mailto:Eric.Frumin@changetowin.org)>  
**Sent:** Sunday, April 27, 2014 12:03:13 PM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** Re: Presidential Proclamation

Sorry to hear. I'll miss you.  
Give my best to the Reg 7 folks.  
Tell Brian Wood that I'll be contacting him soon about coordinating our ideas for the NSC Labor Div mtg next month. Yes, believe it or not, I'm going. The current Chair is a nice smart IBT Local union H&S rep who asked me to come.  
W

[sent from my mobile - please excuse typos]

On Apr 27, 2014, at 11:33 AM, "Berkowitz, Deborah - OSHA" <[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

I will be in Lincoln, NE!

---

**From:** Eric Frumin <[Eric.Frumin@changetowin.org](mailto:Eric.Frumin@changetowin.org)>  
**Sent:** Saturday, April 26, 2014 3:41:27 PM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Presidential Proclamation

Thanks.  
See you Monday.  
ef

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**From:** Berkowitz, Deborah - OSHA [mailto:[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)]

**Sent:** Friday, April 25, 2014 5:22 PM  
**To:** Eric Frumin  
**Subject:** Presidential Proclamation

<http://www.whitehouse.gov/the-press-office/2014/04/25/presidential-proclamation-workers-memorial-day-2014>

**The White House**

Office of the Press Secretary

For Immediate Release  
April 25, 2014

## **Presidential Proclamation -- Workers Memorial Day, 2014**

WORKERS MEMORIAL DAY, 2014

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

America is built on the promise of opportunity. We believe that everyone should have a chance to succeed, that what matters is the strength of our work ethic, the scope of our dreams, and our willingness to take responsibility for ourselves and each other. Yet each year, workplace illness and injury threaten that promise for millions of Americans, and even more tragically, thousands die on the job. This is unacceptable. On Workers Memorial Day, we honor those we have lost, and in their memory, affirm everyone's right to a safe workplace.

With grit and determination, the American labor force has propelled our Nation through times of hardship and war, and it laid the foundation for tremendous economic growth. Workers risked life and limb to turn the gears of the Industrial Revolution, raise our first skyscrapers, and lay railroad track that connected our country from coast to coast. The injured, as well as families of the dead, received little or no compensation.

It was only after decades of organizing, unionizing, and public pressure that workers won many of the rights we take for granted today. Finally, with the Occupational Safety and Health Act of 1970, the Federal Government required employers to provide basic safety equipment. Just 1 year prior, the Federal Coal Mine Health and Safety Act of 1969 established comprehensive safety and health standards for coal mines, increased Federal enforcement powers, and provided compensation to miners with black lung.

My Administration remains dedicated to building on this progress. We are improving standards to protect workers from black lung and reduce their exposure to dangerous substances. We are helping employers provide safe workplaces and holding those who risk workers' lives and health accountable. And we are empowering workers with information so they can stay safe on the job.

We must never accept that injury, illness, or death is the cost of doing business. Workers are the backbone of our economy, and no one's prosperity should come at the expense of their safety. Today, let us celebrate our workers by upholding their basic right to clock out and return home at

the end of each shift.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 28, 2014, as Workers Memorial Day. I call upon all Americans to participate in ceremonies and activities in memory of those killed or injured due to unsafe working conditions.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

BARACK OBAMA

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Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

[<image001.png><image002.png>](#)

[<image003.png>](#)



**From:** [Eric Frumin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Re: Presidential Proclamation  
**Date:** Sunday, April 27, 2014 4:23:26 PM

---

Anything useful you can suggest for me to actually do tomorrow?  
I was just figuring to be an onlooker.  
Of course, if I end up standing next to Perez for a while, I'm sure I'll find something useful to say on enforcement issues.  
EF

[sent from my mobile - please excuse typos]

On Apr 27, 2014, at 3:59 PM, "Berkowitz, Deborah - OSHA" <[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

She runs the Omaha area officer. Yup-old stomping grounds. I'm also talking to the UFCW Tuesday am in Omaha. Good travels to DC, Should be a good event, Glad you will be there.

---

**From:** Eric Frumin <[Eric.Frumin@changetowin.org](mailto:Eric.Frumin@changetowin.org)>

**Sent:** Sunday, April 27, 2014 3:46:31 PM

**To:** Berkowitz, Deborah - OSHA

**Subject:** RE: Presidential Proclamation

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**Sent:** Sunday, April 27, 2014 3:44 PM

**To:** Eric Frumin

**Subject:** Re: Presidential Proclamation

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**To:** Berkowitz, Deborah - OSHA

**Subject:** Re: Presidential Proclamation

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NSC Labor Div mtg next month. Yes, believe it or not, I'm going. The current Chair is a nice smart IBT Local union H&S rep who asked me to come.

W

[sent from my mobile - please excuse typos]

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**To:** Berkowitz, Deborah - OSHA

**Subject:** RE: Presidential Proclamation

Thanks.

See you Monday.

ef

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**From:** Berkowitz, Deborah - OSHA [<mailto:Berkowitz.Deborah@dol.gov>]

**Sent:** Friday, April 25, 2014 5:22 PM

**To:** Eric Frumin

**Subject:** Presidential Proclamation

<http://www.whitehouse.gov/the-press-office/2014/04/25/presidential-proclamation-workers-memorial-day-2014>

**The White House**

Office of the Press Secretary

For Immediate Release

April 25, 2014

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WORKERS MEMORIAL DAY, 2014

-----

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It was only after decades of organizing, unionizing, and public pressure that workers won many of the rights we take for granted today. Finally, with the Occupational Safety and Health Act of 1970, the Federal Government required employers to provide basic safety equipment. Just 1 year prior, the Federal Coal Mine Health and Safety Act of 1969 established comprehensive safety and health standards for coal mines, increased Federal enforcement powers, and provided compensation to miners with black lung.

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BARACK OBAMA

---

Deborah Berkowitz  
Senior Policy Advisor  
Occupational Safety and Health Administration  
202-693-2000

[<image001.png><image002.png>](#)

[<image003.png>](#)



**From:** [Douma, Jessica - OSHA](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: RSVP to Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM  
**Date:** Friday, April 26, 2013 11:09:28 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

I will send him the note. Henry Jajuga is also bringing (b) (6), and his colleague Deborah Robinson, and Walter Jones RSVPd for himself and Travis Parsons, so there will be a dozen guests in addition to the speakers.

Jessica L. Douma  
OSHA - OAS  
(202) 693-1849

---

**From:** Berkowitz, Deborah - OSHA  
**Sent:** Friday, April 26, 2013 11:02 AM  
**To:** Douma, Jessica - OSHA  
**Subject:** FW: RSVP to Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM

Another one... can you send him the note? Thanks. So only ten folks rsvp's?

---

Deborah Berkowitz  
Chief of Staff  
Occupational Safety and Health Administration  
202-693-2000



**From:** Mark Catlin [<mailto:mark.catlin@seiu.org>]  
**Sent:** Friday, April 26, 2013 10:52 AM  
**To:** Berkowitz, Deborah - OSHA  
**Subject:** RSVP to Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM

Dear Deborah,

I will be attending the Worker Memorial Day event on Monday April 29. Thanks for holding this important ceremony.

Sincerely,

Mark Catlin

Industrial Hygienist  
SEIU  
1800 Massachusetts Ave NW  
Washington, DC 20036

(202) 730 - 7290  
(202) 436 - 0856 cell  
[mark.catlin@seiu.org](mailto:mark.catlin@seiu.org)

On Tue, Apr 23, 2013 at 9:24 AM, Berkowitz, Deborah - OSHA  
<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:  
Hope everyone can make it. Please rsvp.

---

**From:** Eric Frumin <[Eric.Frumin@changetowin.org](mailto:Eric.Frumin@changetowin.org)>  
**To:** Berkowitz, Deborah - OSHA  
**Cc:** Bill Borwegen <[bill.borwegen@seiu.org](mailto:bill.borwegen@seiu.org)>; Mark Catlin <[Mark.Catlin@seiu.org](mailto:Mark.Catlin@seiu.org)>;  
LaMont Byrd <[lbyrd@teamster.org](mailto:lbyrd@teamster.org)>; Patrick Morrison <[pmorrison@iaff.org](mailto:pmorrison@iaff.org)>  
**Sent:** Mon Apr 22 22:24:20 2013  
**Subject:** Re: Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM

Debbie:  
I'm forwarding this to the folks at SEIU and IBT.  
Also, Patrick Morrison has replaced Rich Duffy at the IAFF's H&S office.

Eric

[sent from my mobile - please excuse typos]

**From:** [Spieler, Emily](#)  
**To:** [Slavet, Beth - OSHA](#); [Frumin, Eric](#); [Eherts, David](#); [brockjon@outlook.com](mailto:brockjon@outlook.com)  
**Cc:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: setting up meetings on March 10  
**Date:** Monday, December 09, 2013 7:34:16 PM  
**Attachments:** [WPAC work group members - UPDATED.docx](#)

---

See attached for the overlap. Someone should check to make sure this is up to date. I don't see Greg Keating on more than one. Lessin, Eherts, Narine (and me) are the overlaps. Emily

---

**From:** Slavet, Beth - OSHA [<mailto:Slavet.Beth@dol.gov>]  
**Sent:** Monday, December 09, 2013 6:32 PM  
**To:** Frumin, Eric; Spieler, Emily; Eherts, David; [brockjon@outlook.com](mailto:brockjon@outlook.com)  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** RE: setting up meetings on March 10

Off the top of my head without checking the list – both Nancy Lessin and Greg Keating, and, of course, Emily

---

**From:** Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
**Sent:** Monday, December 09, 2013 6:13 PM  
**To:** Spieler, Emily; Eherts, David; [brockjon@outlook.com](mailto:brockjon@outlook.com)  
**Cc:** Slavet, Beth - OSHA; Berkowitz, Deborah - OSHA  
**Subject:** RE: setting up meetings on March 10

Aside from Marcia Narine, which other WPAC members serve on multiple Workgroups? It might be possible for people with such conflicts to do a little shuttling back and forth, depending on how we arrange the agendas for the respective meetings.

I think the chances of getting many people to arrive Sunday night are pretty slim, but it may be possible depending on the group. Otherwise, late morning starts sounds a lot more appealing, especially for the East Coast crowd (which obviously does not include some of the people).

EF

---

**From:** Spieler, Emily [<mailto:e.spieler@neu.edu>]  
**Sent:** Monday, December 09, 2013 4:03 PM  
**To:** Eric Frumin; Eherts, David ([deherts@sikorsky.com](mailto:deherts@sikorsky.com)); [brockjon@outlook.com](mailto:brockjon@outlook.com)  
**Cc:** Slavet, Beth - OSHA OWPP; Berkowitz, Deborah - OSHA ([Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov))  
**Subject:** setting up meetings on March 10

Dear Eric, Dave, Jon,

As you know, we are planning a full WPAC meeting on March 11, and a day for meetings of the work groups on March 10. In thinking about this, we will need to decide if work groups can meet simultaneously, or whether the meetings need to be staggered in view of the fact that there is both overlap in membership and interest in the deliberations of the different groups. If we are to stagger them through the day, then one group will likely need to start reasonably early that morning.

It would be helpful if you can find out from your work group members if they are available to get into D.C. on Sunday, in preparation for an early Monday meeting that day. It would also be helpful if you could give us some idea of how many hours you feel you would need to have a productive work

group meeting that day. (Needless to say, if everyone wants three hour meetings, we will need to start early and go late.)

Thanks.

Emily

-----  
Emily A. Spieler  
Chair  
Whistleblower Protection Advisory Committee  
Occupational Safety and Health Administration  
U.S. Department of Labor

Edwin W. Hadley Professor of Law  
Northeastern University School of Law  
76 Cargill Hall  
400 Huntington Avenue  
Boston, MA 02118  
Office +617-373-2346  
Mobile + 617-930-1510  
Email: [e.spieler@neu.edu](mailto:e.spieler@neu.edu)



**From:** [Barab, Jordan - OSHA](#)  
**To:** [Mashayekhi Azita](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RE: Teamster "health care" facilities in N. Carolina and question on public service hospitals  
**Date:** Tuesday, November 25, 2014 11:12:50 AM

---

Thanks Azita. CDC (and OSHA) are only visiting hospitals that have been designated as Ebola Treatment Facilities or Ebola Assessment Facilities. Of course, if there are specific problem at any of you facilities, workers can file an OSHA complaint.

---

**From:** Mashayekhi Azita [mailto:AMashayekhi@teamster.org]  
**Sent:** Tuesday, November 25, 2014 11:09 AM  
**To:** Barab, Jordan - OSHA  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** Teamster 'health care' facilities in N. Carolina and question on public service hospitals

Hi Debbie and Jordan, I hope you are well. I copied Debbie because I wasn't sure if I should or not. 😊

Regarding your request for health care facilities in N. Carolina, I learned that we represent some fixed and mobile blood-drawing Red Cross sites. The local union rep said that there was a ruling in N. Carolina that Red Cross falls in the pharmaceutical. Not health care, industry. I don't know if that's one you would be interested in. If you are, please contact the larger local, of about 55 members:

Ernest Wrenn (b) (6)  
Collection techs, collection specialists, drivers  
1) Park Road, Charlotte (headquarters)  
2) Huntersville, N. Carolina (25 miles N of Charlotte)

On public service hospitals, you are interested to know if we represent any in the 22 State Plan States (plus CT, IL, NJ, NY, VI)?

Our databases don't separate public from private facilities so it would help me find them for you if I had specific states or even cities in those States. I could then send you a list of the locals and local union reps to contact.

I definitely would like to help with this effort so let me know what the plan is so I understand better.

Thank you!  
Azita

**Azita Mashayekhi, MHS**  
**Staff Industrial Hygienist**

**Safety and Health Department**  
**International Brotherhood of Teamsters**  
**(202) 624-6830 Phone**  
**(202) 624-8740 Fax**

**From:** [Eric Frumin](#)  
**To:** [Slavet, Beth - OSHA](#); [Spieler, Emily](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#); [Swick, Robert - OSHA](#); [Michaels, David - OSHA](#)  
**Subject:** RE: Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too  
**Date:** Monday, December 09, 2013 3:08:47 PM

---

Beth/Emily:

I assume from your email that Zuckerman is leaving the WPAC, too.

(b) (6)  
[Redacted text block]

I would be cautious about inviting someone from MSPB. First, OSC should be able to address the retaliation issues in the public sector sufficiently. Also, the private sector is vastly different from the public sector regarding the threat and the actuality of retaliation under the statutes that OSHA enforces, as well as in relationship to the anti-retaliation provisions of other laws that OSHA does not enforce (MSHA, FLSA, NLRA, etc.). I doubt that the current MSPB experience would be especially helpful in dealing with the private-sector safety-related retaliation practices and the enforcement needed in response.

Thanks.  
Eric

---

**From:** Slavet, Beth - OSHA [<mailto:Slavet.Beth@dol.gov>]  
**Sent:** Monday, December 09, 2013 2:09 PM  
**To:** Spieler, Emily; Eric Frumin  
**Cc:** Berkowitz, Deborah - OSHA; Swick, Robert - OSHA; Eric Frumin; Michaels, David - OSHA  
**Subject:** RE: Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too

Just spoke with David re: this and Zuckerman. He and I will discuss later this week when he gets back from Chicago. I think we should consider putting higher level people on both the Committee and workgroups. I totally agree with Eric that we need a contact from DoT. David chose Van Steenburg because he was an actual safety officer (b) (6). We are going to put together a list of possible replacements for both and we are endeavoring to get Van Steenburg to clarify whether he is also stepping down from WPAC. What would you think of asking OSC Special Counsel Carolyn Lerner or the Chair or Vice Chair of the MSPB to fill Zuckerman's slot?

---

**From:** Spieler, Emily [<mailto:e.spieler@neu.edu>]  
**Sent:** Monday, December 09, 2013 1:30 PM  
**To:** Frumin, Eric; Slavet, Beth - OSHA  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too

Beth – what do you know about the situation with Van Steenburg? Do we need to pull in David to discuss another appointee? I agree with Eric that we need someone from DOT for this. Thanks.

Emily

---

**From:** Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
**Sent:** Monday, December 09, 2013 11:47 AM  
**To:** Slavet, Beth - OSHA; Donovan, William - OSHA; Swick, Robert - OSHA  
**Cc:** Spieler, Emily  
**Subject:** Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too

Rob –

Per our discussion just now, here is the email I just got from Van Steenburg.  
I hope he is staying on WPAC, and is resigning from only this Workgroup. But I doubt it.  
Do you have any suggestion for how I should respond?

In any case, I would greatly appreciate anything you can do to get someone from DOT involved in our Workgroup, even if just as an “expert” advisor.  
I don’t think this should be someone from FRA, however, since from my understanding they are still in a “learning” phase about how to deal with contentious labor-management issues in a consensus-seeking format (as compared to FAA, for instance).

Perhaps someone from the C3RS effort (about which I wrote to you yesterday), even tho it is primarily rail-related?

Finally, please get me feedback on the revised Workgroup agenda that I sent you yesterday, so I can send it out to the Group by mid-afternoon.

Thanks again for your help.  
Eric

---

**From:** [john.vansteenburgh@dot.gov](mailto:john.vansteenburgh@dot.gov) [<mailto:john.vansteenburgh@dot.gov>]  
**Sent:** Monday, December 09, 2013 11:27 AM  
**To:** Eric Frumin  
**Cc:** [kiyana.chisley@dot.gov](mailto:kiyana.chisley@dot.gov)  
**Subject:** RE: Confirm Dec. 10 conference call for Whistleblower Program Transport Workgroup, 12pm - 2pm, EST

Eric,

I cannot make the call tomorrow and am respectfully withdrawing my involvement in the workgroup. Sincerely,

Jack Van Steenburg

---

**From:** Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
**Sent:** Tuesday, December 03, 2013 8:56 PM  
**To:** Charles Shewmake ([Charles.shewmake@bnsf.com](mailto:Charles.shewmake@bnsf.com)); Constance Valkan ([Constance.Valkan@cn.ca](mailto:Constance.Valkan@cn.ca)); Ed Watt; [jadint@schneider.com](mailto:jadint@schneider.com); Van Steenburg, John (FMCSA); [lm.mann@verizon.net](mailto:lm.mann@verizon.net); Marcia Narine ([marcianarine@gmail.com](mailto:marcianarine@gmail.com)); Mike Manley; Rick Inclima; Rob DeLucia ([rdelucia@airlines.org](mailto:rdelucia@airlines.org)); 'harrywz@cox.net'; Robert Swick  
**Cc:** Emily Spieler; [Slavet.Beth@dol.gov](mailto:Slavet.Beth@dol.gov); Eric Frumin; Eherts, David M SIK; [jbrock@u.washington.edu](mailto:jbrock@u.washington.edu)

**Subject:** RE: Confirm Dec. 10 conference call for Whistleblower Program Transport Workgroup, 12pm - 2pm, EST

TO: Transportation Workgroup

Here are the details about our conference call next week.

Call-in numbers:

Telephone: 866-566-8971

Participant Pass code: (b) (6)

An announcement of our Workgroup meeting has been posted in the “meetings” section on OSHA’s WPAC [website](https://www.osha.gov/dep/oia/wpac_agenda_12102013.html), at: [https://www.osha.gov/dep/oia/wpac\\_agenda\\_12102013.html](https://www.osha.gov/dep/oia/wpac_agenda_12102013.html).

NOTE: this announcement does not yet include the names of the “expert” participants in our Workgroup. However, OSHA plans to add your names to this announcement in a few days.

Attached (and below) is my draft agenda, as well as the Charge to the Workgroup and a list of Workgroup members (including both the 3 WPAC members as well as the “expert” advisors). Please let me know if you have any concerns about this agenda.

Public participation

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Thanks again for your willingness to help.

Eric Frumin, Workgroup Chair  
Change to Win

.....

WPAC Transportation Workgroup – Dec. 10, 2013 teleconference

### **Agenda**

- Introductions, including 1-minute statement from each member including your current position, and your primary goal(s) for the Workgroup within the context of the overall Charge for the Workgroup.
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- Review opportunity for public participation in this call.
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  - o Overall role of WPAC, and background of creation of the Transport Workgroup (see WPAC website at: <https://www.osha.gov/dep/oia/wpac.html>, including WPAC Charter at: [https://www.osha.gov/dep/oia/wpac\\_charter.html](https://www.osha.gov/dep/oia/wpac_charter.html))
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    - the "low-hanging fruit"
    - more challenging goals which require more effort, research, involvement with other participants, discussion/consensus-building, etc.
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- Public comment period.
- Close.

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**Sent:** Sunday, November 17, 2013 11:36 PM

**To:** Eric Frumin; Charles Shewmake ([Charles.shewmake@bnsf.com](mailto:Charles.shewmake@bnsf.com)); Constance Valkan ([Constance.Valkan@cn.ca](mailto:Constance.Valkan@cn.ca)); Ed Watt; [jadint@schneider.com](mailto:jadint@schneider.com); John Van Steenburg; [lm.mann@verizon.net](mailto:lm.mann@verizon.net); Marcia Narine ([marcianarine@gmail.com](mailto:marcianarine@gmail.com)); Mike Manley; Rick Inclima; Rob DeLucia ([rdelucia@airlines.org](mailto:rdelucia@airlines.org)); 'harrywz@cox.net'; Robert Swick

**Cc:** Emily Spieler; [Slavet.Beth@dol.gov](mailto:Slavet.Beth@dol.gov); Eric Frumin

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(Please note that this allowance only applies to the "expert" members, not to the WPAC Members themselves.)

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If anyone else needs to avail themselves of this policy for future meetings, please let me the know the details and I will seek the approval of WPAC Chair Emily Spieler.

Thanks again for your commitment to the work of this group.

Eric

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**Cc:** Emily Spieler; [Slavet.Beth@dol.gov](mailto:Slavet.Beth@dol.gov); Eric Frumin

**Subject:** Whistleblower Program Adv Comm -- Transport Workgroup; PLEASE REPLY BY FRIDAY, NOV. 15.

TO: WPAC Transport Workgroup

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And thanks to Robert Swick, the OSHA WB program staff member assigned to our Workgroup.

Attached for your reference is a list of Workgroup members. I am also cc'ing in this email both our WPAC Chair Emily Spieler, and OSHA WB Program Director Beth Slavet.

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(FYI: the attached version also includes the Charges to the two other Workgroups which are meeting concurrently)

Our group has a considerable challenge. However, I am hopeful that despite our obvious differences, the commitments which all of you have given will allow us to promptly move forward to clear consensus recommendation on the issues raised by Dr. Michaels.

Our immediate task is to find a date and time to meet by telephone.

**I suggest that we do so on December 10, at 12pm noon - 2pm Eastern.** It appears that this date is available to those with whom I've spoken, and I hope for the rest of you as well.

**Alternative dates/times may also be suitable on:**

**Dec. 4 afternoon**

**Dec. 6 afternoon**

PLEASE REPLY TO ME (not "Reply to All") to confirm your availability for ALL of these potential times.

Following our agreement on the date/time, we can begin the hard work of articulating our respective concerns, and identifying our areas of potential agreement.

Given the difficulty of both travel and scheduling, I assume we will be forced to do much of our work by email. However, that will also allow us to frame our concerns succinctly and concretely as a useful foundation for further discussions and agreement.

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#### Ground Rules:

Since both the WPAC and our Workgroup operate within the framework established by the Federal Advisory Committee Act (FACA), we will operate in a transparent matter, with maximal opportunity for public awareness and participation. This will include the issuance of public notices about our scheduled conference calls/meetings, with time for public participation in each. We will receive further guidance about the operational implications of this mandate, but please keep this mandate in mind when communicating amongst ourselves. If you have any urgent specific questions about the implications of this mandate, please



contact me or our OSHA staff liason Robert Swick.

### Transparency of interests

In order to promote open discussion and potential agreement, I believe that we need to help each other understand broadly our individual contributions to this discussion. In this spirit, I want to clarify my own institutional ties to the labor members of this Workgroup – and particularly to the representatives from the Teamsters (IBT) trucking and rail divisions, given the IBT’s status as an affiliate of Change to Win.

Please let me know if you have any concerns about this or any other aspects of our respective individual contributions to the Workgroup’s deliberations.

### Relationship to other Workgroups

As you can see from the attached compilation of their respective Charges, it is evident that there are important aspects to workplace safety in the transport sector which fall within the purview of the other Workgroups. For instance, even as we search for the employer practices which “**threaten the ability of employees to raise concerns about safety and health,**” many of us are aware of other employer practices which actively promote worker participation in health and safety management systems. Likewise, we may be aware of “**shortcomings in the current statute that need to be addressed in order to provide effective protection to employees.**” These and other comparable ideas should be referred to the respective Workgroups, and allow us to continue to focus our work on the operational workplace obstacles to the promotion of effective worker voice on transport sector health and safety issues.

Thanks again for your advice and assistance in this important effort. Talk to you soon.

Eric Frumin, Workgroup Chair

Health and Safety Director  
Change to Win

Direct: (212) 341-7065

Cell Phone: (917) 209-3002

Fax: 212-341-7078

Email: [eric.frumin@changetowin.org](mailto:eric.frumin@changetowin.org)

90 Broad St., Suite 710

New York, NY 10004

### WORKGROUP CHARGE

#### **Charge to the Transportation Working Group**

The focus of the Working Group’s activities should be on current practices in particular sectors of the industry and the effectiveness of existing legislation in addressing practices that **threaten the ability of employees to raise concerns about safety and health.** In looking at these issues, the Working Group should consider the effects and successes of the existing laws, gaps in both legislation and employer practices, employer practices that raise particular

concerns, and the effectiveness of current legislation and enforcement in addressing these gaps. OSHA would like advice on where and how to most effectively and productively focus its enforcement and outreach to achieve the greatest impact given its current resources.

**From:** [Slavet, Beth - OSHA](#)  
**To:** [Spieler, Emily](#); [Frumin, Eric](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#); [Swick, Robert - OSHA](#); [Frumin, Eric](#); [Michaels, David - OSHA](#)  
**Subject:** RE: Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too  
**Date:** Monday, December 09, 2013 2:09:29 PM

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Just spoke with David re: this and Zuckerman. He and I will discuss later this week when he gets back from Chicago. I think we should consider putting higher level people on both the Committee and workgroups. I totally agree with Eric that we need a contact from DoT. David chose Van Steenburg because he was an actual safety officer (b) (6). We are going to put together a list of possible replacements for both and we are endeavoring to get Van Steenburg to clarify whether he is also stepping down from WPAC. What would you think of asking OSC Special Counsel Carolyn Lerner or the Chair or Vice Chair of the MSPB to fill Zuckerman's slot?

---

**From:** Spieler, Emily [<mailto:e.spieler@neu.edu>]  
**Sent:** Monday, December 09, 2013 1:30 PM  
**To:** Frumin, Eric; Slavet, Beth - OSHA  
**Cc:** Berkowitz, Deborah - OSHA  
**Subject:** RE: Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too

Beth – what do you know about the situation with Van Steenburg? Do we need to pull in David to discuss another appointee? I agree with Eric that we need someone from DOT for this. Thanks.  
Emily

---

**From:** Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
**Sent:** Monday, December 09, 2013 11:47 AM  
**To:** Slavet, Beth - OSHA; Donovan, William - OSHA; Swick, Robert - OSHA  
**Cc:** Spieler, Emily  
**Subject:** Van Steenburg resigns from Transport Workgroup -- and maybe WPAC, too

Rob –

Per our discussion just now, here is the email I just got from Van Steenburg.

I hope he is staying on WPAC, and is resigning from only this Workgroup. (b) (6)

Do you have any suggestion for how I should respond?

In any case, I would greatly appreciate anything you can do to get someone from DOT involved in our Workgroup, even if just as an “expert” advisor.

I don't think this should be someone from FRA, however, since from my understanding they are still in a “learning” phase about how to deal with contentious labor-management issues in a consensus-seeking format (as compared to FAA, for instance).

Perhaps someone from the C3RS effort (about which I wrote to you yesterday), even tho it is primarily rail-related?

Finally, please get me feedback on the revised Workgroup agenda that I sent you yesterday, so I can send it out to the Group by mid-afternoon.

Thanks again for your help.

Eric

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**From:** [john.vansteenburgh@dot.gov](mailto:john.vansteenburgh@dot.gov) [<mailto:john.vansteenburgh@dot.gov>]  
**Sent:** Monday, December 09, 2013 11:27 AM  
**To:** Eric Frumin  
**Cc:** [kiyana.chisley@dot.gov](mailto:kiyana.chisley@dot.gov)  
**Subject:** RE: Confirm Dec. 10 conference call for Whistleblower Program Transport Workgroup, 12pm - 2pm, EST

Eric,

I cannot make the call tomorrow and am respectfully withdrawing my involvement in the workgroup. Sincerely,

Jack Van Steenburg

---

**From:** Eric Frumin [<mailto:Eric.Frumin@changetowin.org>]  
**Sent:** Tuesday, December 03, 2013 8:56 PM  
**To:** Charles Shewmake ([Charles.shewmake@bnsf.com](mailto:Charles.shewmake@bnsf.com)); Constance Valkan ([Constance.Valkan@cn.ca](mailto:Constance.Valkan@cn.ca)); Ed Watt; [jadint@schneider.com](mailto:jadint@schneider.com); Van Steenburg, John (FMCSA); [lm.mann@verizon.net](mailto:lm.mann@verizon.net); Marcia Narine ([marcianarine@gmail.com](mailto:marcianarine@gmail.com)); Mike Manley; Rick Inclima; Rob DeLucia ([rdelucia@airlines.org](mailto:rdelucia@airlines.org)); 'harrywz@cox.net'; Robert Swick  
**Cc:** Emily Spieler; [Slavet.Beth@dol.gov](mailto:Slavet.Beth@dol.gov); Eric Frumin; Eherts, David M SIK; [jbrock@u.washington.edu](mailto:jbrock@u.washington.edu)  
**Subject:** RE: Confirm Dec. 10 conference call for Whistleblower Program Transport Workgroup, 12pm - 2pm, EST

TO: Transportation Workgroup

Here are the details about our conference call next week.

Call-in numbers:

Telephone: 866-566-8971

Participant Pass code: (b) (6)

An announcement of our Workgroup meeting has been posted in the "meetings" section on OSHA's WPAC [website](https://www.osha.gov/dep/oia/wpac_agenda_12102013.html), at: [https://www.osha.gov/dep/oia/wpac\\_agenda\\_12102013.html](https://www.osha.gov/dep/oia/wpac_agenda_12102013.html).

NOTE: this announcement does not yet include the names of the "expert" participants in our Workgroup. However, OSHA plans to add your names to this announcement in a few days.

Attached (and below) is my draft agenda, as well as the Charge to the Workgroup and a list of Workgroup members (including both the 3 WPAC members as well as the "expert" advisors). Please let me know if you have any concerns about this agenda.

#### Public participation

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an opportunity to invite non-members to listen in, and to offer comments during the public comment section at the end.

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As you can see from the Agenda, we have a number of challenges if we are to accomplish our overall goal of producing meaningful Recommendations for consideration by the full WPAC on March 11. (We anticipate that we will meet, most likely in person in Washington, DC, on March 10 in advance of the March 11 WPAC meeting, hopefully to finalize these recommendations).

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Thanks again for your willingness to help.

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Change to Win

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WPAC Transportation Workgroup – Dec. 10, 2013 teleconference

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obstacles to the promotion of effective worker voice on transport sector health and safety issues.

Thanks again for your advice and assistance in this important effort. Talk to you soon.

Eric Frumin, Workgroup Chair

Health and Safety Director  
Change to Win

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Cell Phone: (917) 209-3002

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90 Broad St., Suite 710

New York, NY 10004

#### WORKGROUP CHARGE

#### **Charge to the Transportation Working Group**

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**From:** [Spieler, Emily](#)  
**To:** [brockjon@outlook.com](mailto:brockjon@outlook.com); [Frumin, Eric](#); [Eherts, David](#)  
**Cc:** [Slavet, Beth - OSHA](#); [Seeman, Laura - OSHA](#); [Berkowitz, Deborah - OSHA](#); [Smith, Meghan P. - OSHA](#); [Blancato, Philippe - OSHA](#); [Swick, Robert - OSHA](#)  
**Subject:** Reminder about Monday phone call + DRAFT email to full committee  
**Date:** Sunday, November 10, 2013 11:34:48 AM  
**Attachments:** [Charges to WPAC Working Groups.docx](#)  
[WPAC work group members - 11-19-2013.docx](#)

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Dear Jon, Dave, Eric:

Below is a draft email that I will send out to the WPAC after our conversation tomorrow morning. I'd appreciate it if you would look it over before we talk. Please also check the attachments, and (in particular) please make sure that the membership of your group is listed correctly.

I'm hoping that we can reach some more complete understanding regarding a timetable when we talk: We need to let Beth et al know when we think the best timing would be for a face to face meeting of subcommittees (AKA work groups) and the full committee, and we need to figure out a strategy for scheduling the telephone conference calls before that occurs.

The call-in information for tomorrow's phone call (11 a.m. EST): 877-336-1831; code: (b) (6).

Thanks, Emily

-----  
DRAFT EMAIL:

Dear WPAC members,

The three work groups are now up and running, and most of our current work will occur in these groups. I am attaching the charges that David Michaels has given to us for all three work groups, as well as a list of workgroup members, including outside experts from both industry and labor who have been named to participate in the Transportation Work Group deliberations.

Contact information for the work groups:

Work Group:	Chairperson:	Chair's email:	Staff person:	Staff member's email:
Best Practices	Jon Brock	(b) (6)	Meghan Smith	(b) (6)
Section 11(c)	David Eherts	(b) (6)	Phil Blancato	(b) (6)
Transportation	Eric Frumin	(b) (6)	Rob Swick	(b) (6)

The chairs of the workgroups will be in touch soon to set up times for conference calls to continue to develop both work plans and the substantive ideas for the group. We anticipate that there will be at least two telephonic meetings of each workgroup in the next couple of months. These will be publicly noticed, and therefore we need some lead time to set them up. We also anticipate that we will schedule a set of meetings in D.C. sometime in the first quarter of 2014 when both the subgroups and the full committee

will be able to meet in person and really move our work forward; you should be contacted regarding scheduling in the next few weeks. In the meantime, please think about whether there are external people whom you would like to invite to speak to (or with) your work group(s) to bring in ideas, observations or expertise that we may lack. We will also be setting up folders on the DOL extranet for the work groups to post information (reports, data, etc.).

Please let me know if you have any questions or concerns that affect the WPAC generally; you should bring your ideas for the work groups to the chair of the subgroup.

Thanks.

Emily

-----  
Emily A. Spieler  
Chair  
Whistleblower Protection Advisory Committee  
Occupational Safety and Health Administration  
U.S. Department of Labor

Edwin W. Hadley Professor of Law  
Northeastern University School of Law  
76 Cargill Hall  
400 Huntington Avenue  
Boston, MA 02118  
Office +617-373-2346  
Mobile + (b) (6)  
Email: [e.spieler@neu.edu](mailto:e.spieler@neu.edu)

**From:** [Mark Catlin](#)  
**To:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** RSVP to Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM  
**Date:** Friday, April 26, 2013 10:51:56 AM

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Dear Deborah,

I will be attending the Worker Memorial Day event on Monday April 29. Thanks for holding this important ceremony.

Sincerely,

Mark Catlin

Industrial Hygienist  
SEIU  
1800 Massachusetts Ave NW  
Washington, DC 20036  
[\(202\) 730 - 7290](#)

(b) (6) cell  
(b) (6)

On Tue, Apr 23, 2013 at 9:24 AM, Berkowitz, Deborah - OSHA

<[Berkowitz.Deborah@dol.gov](mailto:Berkowitz.Deborah@dol.gov)> wrote:

Hope everyone can make it. Please rsvp.

---

**From:** Eric Frumin <(b) (6)>  
**To:** Berkowitz, Deborah - OSHA  
**Cc:** Bill Borwegen <(b) (6)>; Mark Catlin <(b) (6)>;  
LaMont Byrd <(b) (6)>; Patrick Morrison <(b) (6) [org](#)>  
**Sent:** Mon Apr 22 22:24:20 2013  
**Subject:** Re: Invitation to DOL Worker Memorial Day Program: April 29th, 10:30 AM

Debbie:

I'm forwarding this to the folks at SEIU and IBT.

Also, Patrick Morrison has replaced Rich Duffy at the IAFF's H&S office.

Eric

[sent from my mobile - please excuse typos]



## State of New Jersey

OFFICE OF THE GOVERNOR

PO Box 001

TRENTON, NJ 08625-0001

CHRIS CHRISTIE

*Governor*

LOUIS GOETTING  
*Deputy Chief of Staff*

January 30, 2013

William Vogel, Federal Coordinating Officer  
FEMA, Joint Field Office  
307 Middleton-Lincroft Road  
Lincroft, NJ 07738

Dear Mr. Vogel:

On October 29, 2012, New Jersey experienced devastating impacts from Hurricane Sandy. Although the storm raged up the East Coast, New Jersey took a direct hit causing billions of dollars in damage to residential and commercial property, including the destruction of entire neighborhoods. The state experienced catastrophic flooding, thousands of downed trees, record storm surge levels, over 2.7 million customers without power and over 6,000 persons forced to relocate into emergency shelters due to flooding or damage to their homes. Many healthcare facilities experienced significant flood and/or water damage, degrading their ability to provide services to their communities.

As individuals return to their flood damaged homes and businesses there are many health hazards awaiting them. With moist conditions, mold spores can grow and multiply. Extensive mold contamination can cause health effects such as allergic reactions and asthma. Additionally, the potential for asbestos and lead exposure exists as individuals, including contractors, may not have the appropriate level of awareness regarding these hazards. Children, the elderly, and individuals with preexisting medical conditions are at greater risk for health effects post Hurricane Sandy.

In response to the damage created by this storm, the New Jersey Department of Health is working with our healthcare and public health partners to protect the health of our State's residents who have been impact by Hurricane Sandy and to restore the operations of our healthcare facilities. We greatly appreciate all the assistance that FEMA has provided to the State of New Jersey in supporting our response to and recovery to this storm.

I am writing to request that FEMA take two actions that will greatly assist us with our recovery efforts:


- 1) Request the National Institute of Environmental Health Sciences (NIEHS) to provide

training and education to cleanup workers and volunteers on potential safety and health hazards and appropriate control measures during the recovery process, through the NIEHS Worker Education Training Program; and

- 2) Direct that a FEMA Mitigation Assessment Team (MAT) conduct a mitigation analysis on 23 impacted healthcare facilities throughout the state. We request that the mitigation assessments begin the week of February 18, 2013 and be conducted within 30 days. The information gathered will assist in identifying mitigation initiatives to be included in the state's recovery plan.

I look forward to hearing from you about these requests, and continuing to work with FEMA to assure that New Jersey's recovery from Hurricane Sandy is done in a way that protects and improves the health of its people.

Sincerely,



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Lou Goetting, Deputy Chief of Staff  
Governor's Authorized Representative

January 4, 2013

Governor Chris Christie  
Office of the Governor  
P.O. Box 001- State House  
Trenton, New Jersey 08625

Dear Governor Christie:

On behalf of the undersigned 48 labor, environmental, and public interest organizations and safety and health professionals, we ask you to take action on an urgent matter of life and death. In the aftermath of Superstorm Sandy, New Jersey faces the massive challenge of cleaning up the damage, recovering from the devastation and rebuilding houses, buildings, communities and infrastructure. Fifteen workers and volunteers have already died in New Jersey and New York related to storm response efforts.<sup>1</sup> Now, cleanup and restoration work endangers workers and the public. Electrical hazards, safety hazards, hazardous waste, sewage, chemical contamination, asbestos, and mold are all serious concerns. These potential hazards are widespread with many groups at risk – public sector workers, building trades, utility workers, service sector workers, and temporary workers, as well as day laborers, volunteers and homeowners.

**Just as protecting safety and health was a priority during the storm, protecting the safety and health of workers, volunteers, and homeowners must be a priority during cleanup and recovery. We ask that you use your authority to request federal assistance and to ensure coordination so that everyone working on the cleanup and recovery is protected.**

If you request it, the Federal Emergency Management Agency (FEMA) can activate already established procedures for coordinating the efforts of federal, state, and local agencies and N.J. businesses, universities, and nonprofit organizations to identify hazards, provide training, and make sure proven safety and health protections are being provided and followed. Those efforts would be supported with federal funds.

*A centralized, coordinated, all-hazards health and safety response infrastructure is standard in catastrophic disaster response, yet this is not in place in the wake of Sandy.* Since the day following the storm, the federal Occupational Safety and Health Administration (OSHA) has been on the ground attempting to identify hazardous conditions, conduct outreach, and work with federal agencies and state and local authorities to protect workers. Unions, worker centers, and universities have been able to do limited outreach and training and provide some personal protective equipment. However, a request from you to FEMA is needed to ensure comprehensive, organized outreach and training for clean-up workers and volunteers.

Thus, we make the following requests to you in your role as Incident Commander for New Jersey under FEMA's procedures to ensure the safety and health of workers and volunteers:

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<sup>1</sup> Fatal Accidents: Two Month Lookback, US Department of Labor, Occupational Safety and Health Administration, Region 2, December 28, 2013.

- 1) Request FEMA to activate the process formally known as the Worker Safety and Health Annex of the National Response Framework to ensure a coordinated response to address the safety and health issues presented in recovery and clean-up operations. Under that process, FEMA would provide necessary resources and a formal assignment to OSHA to:
  - a. Implement a statewide Health and Safety Plan (“HASP”) covering federal, state, local, and private sector workers involved in the response and recovery.
  - b. Provide outreach and compliance assistance materials to employers and workers on potential safety and health hazards and control measures.
  - c. Provide support for safety and health training and education for clean up and recovery workers, particularly for workers hired under the National Emergency Grants provided by the U.S. Department of Labor to give temporary recovery jobs to unemployed residents through local government agencies.
  - d. Conduct hazard evaluations and sampling to determine risks at sites impacted by the storm.
  
- 2) Request that FEMA formally ask the National Institute of Environmental Health Sciences (NIEHS) to provide training and education to cleanup workers and volunteers on potential safety and health hazards and appropriate control measures during the recovery process.

The NIEHS Worker Education Training Program can activate its network of education and training resources to ensure safe work practices and a high level of worker protection during cleanup. This network of union-based, university, community college, and nonprofit organizations already provides health and safety training with NIEHS support. NIEHS and its network in the Gulf provided health and safety training to 35,000 responders after Hurricane Katrina and 147,000 responders after the BP oil spill. In New Jersey and New York, the NIEHS network has trained more than 155,000 workers during the past five years on disaster response; lead, asbestos, and mold remediation; and other topics. These organizations already have trainers, classroom facilities, and mobile training vans.

- 3) Plan and implement health and safety awareness days, engaging state and federal agencies, including the NJ Departments of Labor and Workforce Development, Health, and Environmental Protection, to ensure that basic information reaches workers and volunteers in the hardest hit areas.
  
- 4) Ensure that Recovery4Jersey funds for job training (and all related funds for training and employment) include a requirement for safety and health training *before* work begins. Recovery4Jersey provides state grants to utility companies, construction companies, and other businesses involved in recovery efforts to train newly hired staff. It also provides grants to local Workforce Investment Boards in the state for on-the-job training of unemployed people hired for recovery-related work.
  
- 5) Establish a 24-hour hotline and blanket the airwaves and the Internet with information about the right way and wrong way to conduct recovery efforts. In doing so, the state



should publicize the legal protection for whistleblowers under New Jersey's Conscientious Employee Protection Act (CEPA) and other laws.

- 6) Promptly initiate a public/private task force engaging state and federal agencies, employers, labor unions, worker's centers, volunteer organizations, the hardest hit communities (including their Community Emergency Response Team Programs), and mayors to meet publicly at least once every two weeks to help advise, plan, and implement safety and health activities.

Failure to provide workers and volunteers with the necessary protection and training after the September 11, 2001 attacks on the World Trade Center caused widespread disease and death. By contrast, during the BP oil spill in the Gulf, many effective measures were taken to protect workers. We must learn from these experiences and take the necessary steps to protect those who are responding to this disaster.

We look forward to working with you to protect health and safety in our state and would be most appreciative of receiving a written response to these recommendations. Please reply to Rick Engler, Director, NJ Work Environment Council, 142 West State Street, Third Floor, Trenton, NJ 08608 (or via email at [rengler@njwec.org](mailto:rengler@njwec.org)).

Thank you very much for your consideration.

Sincerely,

John Pajak, President, New Jersey Work Environment Council

Michael J. Wright, Director, Health, Safety, and Environment, United Steelworkers (USW)

John Luminoso, President, USW Local 4-397

Howard Boyer, Health and Safety Chair, USW Local 4-417

David LeGrande, Director, Safety and Health, Communications Workers of America (CWA)

Hetty Rosenstein, NJ Area Director, CWA District 1

Alberto Hernandez, President, CWA Local 1082

Bill Borwegen, Director, Occupational Health and Safety, Service Employees International Union

Bernie Gerard, Vice President, Health Professionals and Allied Employees (AFT)

Richard Whalen, International Vice President, United Food and Commercial Workers (UFCW), Region 1

John S. Morawetz, Health and Safety Department, International Chemical Workers Union Council (UFCW)

Joseph J. Nigro, General President, Sheet Metal, Air, Rail and Transportation (SMART) International Association

Michael Glenning, Director, NJ Community Action Program, United Auto Workers, Region 9

Franceline Ehret, President, International Federation of Professional and Technical Engineers, Local 194

Donna Chiera, President, American Federation of Teachers (AFT-NJ)

Lucye Millerand, President, Union of Rutgers Administrators (URA-AFT)

Joyce Sagi, Chair for Health and Safety, AFT-NJ

Barbara Keshishian, President, NJ Education Association

Linda Mason, Legislative/Political Coordinator, American Federation of Government Employees, District 2

Doc Doherty, President, International Brotherhood of Teamsters (IBT), Local 877

Fredrick Potter, President, IBT Local 469

Dominick Marino, President, Professional Firefighters Association of NJ

Chip Gerrity, President/Business Manager, International Brotherhood of Electrical Workers, Local 94

John Birkner, President, Utility Workers Union of America Local 534

Carol E. Gay, President, NJ State Industrial Union Council

Rich Speiler, President, Burlington County Central Labor Council, AFL-CIO

Marien Pabellon, Executive Director, New Labor

Nelson Carrasquillo, General Coordinator, Farmworker Support Committee (CATA)

Barbara Rahke, Director, Philadelphia Area Project on Occupational Safety and Health

Tom O'Connor, Executive Director, National Council for Occupational Safety and Health

Jeff Tittel, Director, Sierra Club, New Jersey Chapter

David Tykulsker, National Board Chair, Clean Water Action

Tim Dillingham, Executive Director, American Littoral Society

Rev. Fletcher Harper, Executive Director, GreenFaith

David Foster, Executive Director, BlueGreen Alliance

Bill Holland, Director, New Jersey Working Families Alliance

Phyllis Salowe-Kaye, Executive Director, New Jersey Citizen Action

Rev. Joe Parrish, Rector, St. John's Church, Elizabeth

Joseph Della Fave, Executive Director, Ironbound Community Corporation

**Health and Safety Professionals** (institutions listed for identification only)

Michael Gochfeld, MD, PhD, Professor, Robert Wood Johnson Medical School

Frances Gilmore, Industrial Hygienist

Eileen Senn, Certified Industrial Hygienist (retired)

Tamara McNair, Industrial Hygienist

Keith Crowell, Industrial Hygienist

Ken Hoffner, Certified Industrial Hygienist, CSP; NJ Construction Safety and Health

Steven M. Miller, Ph.D., Environmental Scientist (retired)

Diana Crowder, Certified Industrial Hygienist

Adrienne Markowitz, Industrial Hygienist

C: Marc-Philip Ferzan, Executive Director, Governor's Office of Recovery and Rebuilding

Kevin O'Dowd, Chief of Staff, Governor's Office

Mary E. O'Dowd, Commissioner, NJ Department of Health

Harold J. Wirths, Commissioner, NJ Department of Labor and Workforce Development

Bob Martin, Commissioner, NJ Department of Environmental Protection

Robert Kulick, Administrator, OSHA Region 2, USDOL

Judith Enck, Administrator, EPA Region 2

Sandy Christie Letter Submitted

**U.S. Department of Labor**

Occupational Safety and Health Administration  
911 Washington  
Room 420  
St. Louis, MO 63101  
Phone: (314)425-4249 FAX: (314)425-4289



**Citation and Notification of Penalty**

**To:**  
SUPERVALU HOLDINGS INC

**Inspection Number:** 305630808  
**Inspection Date(s):** 11/22/2002 - 05/21/2003

and its successors  
7100 Hazelwood Ave.  
Hazelwood, MO 63042

**Issuance Date:** 05/22/2003  
**Reply to the Attn of:** Bill McDonald

**Inspection Site:**  
7100 Hazelwood Ave.  
Hazelwood, MO 63042

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

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If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 3 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Area Office in writing of the abatement steps you have taken and of their dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

**Employer Rights and Responsibilities** - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 05/22/2003. The conference will be held at the OSHA office located at 911 Washington, Room 420, St. Louis, MO, 63101 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

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## Citation and Notification of Penalty

Company Name: SUPERVALU HOLDINGS INC  
Inspection Site: 7100 Hazelwood Ave., Hazelwood, MO 63042

### Citation 1 Item 1 Type of Violation: **Serious**

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical harm to employees, in that employees were required to perform lifting tasks resulting in stressors that had caused, were causing, or were likely to cause musculoskeletal disorders (MSDs):

a. At the Supervalu warehouse facility, order selectors were required to lift weights up to 77 lbs or more (at an approximate average of 1714 pieces per day and a total weight of 37,025 pounds), and to twist, reach, bend, and lift when selecting pieces and loading them onto pallets. The evaluation of this manual lifting task indicates that employees are exposed to hazards that are causing or likely to cause MSDs, including low back pain (LBP) and shoulder related MSDs, as shown by a review of the company's injury and illness records from 1998 to the time of the inspection, which document that a significant number of MSDs have been caused by exposure to stressors; including 6 shoulder surgeries in 2001 and 2 shoulder surgeries in 2002.

#### ABATEMENT METHODS

While some ergonomic related risk factors can be reduced or eliminated by implementing a single means of abatement, in most cases a process using components, such as the following, will provide the most effective method of addressing the factors.

- (1). Worksite analysis to recognize and identify existing MSD hazards, including workplace manual lifting and reaching. This analysis should include development and use of an ergonomic checklist and employee questionnaire. Periodic surveys of the workplace should be conducted at appropriate intervals to evaluate work practices and engineering controls. Employee participation in this process should be encouraged.
- (2). Medical management which includes accurate recordkeeping of MSD's, such as manual lifting and reaching injuries. The protocol should address early recognition, evaluation, and referral of MSD cases. Systematic worksite review by the medical team should also be included.
- (3). Training and education for exposed employees, including methods to evaluate the effectiveness of the training. Re-training should be done annually, or as operations change. Training should be done in a manner understandable by all employees and address hazards associated with the job, early recognition of ergonomic injuries and illnesses, the risks of manual material handling, and how to prevent MSDs, including manual lifting and reaching injuries. Training should also be provided to management. A supervisors' training program should also be implemented to allow recognition of MSD hazards. The training program should include the establishment's health care providers to ensure that they are able to

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



### Citation and Notification of Penalty

Company Name: SUPERVALU HOLDINGS INC  
Inspection Site: 7100 Hazelwood Ave., Hazelwood, MO 63042

recognize and prescribe appropriate treatment for MSDs. Educational material or training on ergonomics should be provided to people responsible for designing jobs and buying equipment, tools, workstations, and parts.

(4). Hazard prevention and control which includes engineering, administrative, and work practice controls.

(a). Engineering controls are designed by a qualified ergonomist and may include workstation redesign, tool and handle redesign, and use of mechanical lifting aids. The goal should be to make the job fit the person, not vice versa. Examples of engineering controls applicable to this workplace include:

1. Investigate obtaining stand-up pallet jacks with forks that can be raised up to 3 ft so that less bending is required for order selectors to place cases on the pallet.
2. Place self-adjustable palletizers on presently used stand-up pallet jacks to reduce bending during initial placement of cases; phase in adjustable palletizers in slots with heaviest, fastest moving products or use wooden pallets in slots to raise heaviest, fastest moving products.
3. Work with suppliers to provide cases/boxes with hand cut outs on heavy and large/long cases, such as 25 lbs, but especially when 40 lbs or more.

(b) Administrative controls are implemented which reduce the duration, frequency, and severity of exposure to MSD hazards. These controls may include job rotation, reduction of repetitions, multiple person lifts, and preventive maintenance of related equipment. Examples of administrative controls include:

1. Investigate the inclusion of fatigue, age, and injury factors (e.g. those employees that have been injured, and have been released for full duty, but because of injury or accumulated injury are no longer able to keep pace as before injury) into time standards.
2. Overtime should be kept to a minimum or eliminated in so far as possible.

(c) Work practice controls are implemented which include proper work techniques, new employee conditioning, proper placement of loads, and reduction of weight lifted. Examples of work practice controls applicable to this workplace include:

1. Work with suppliers to reduce case weights (such as meat) to 40 lbs; or make purchases only from suppliers with reduced case weights.
2. Eliminate picking from 3 tiered racking; reduce number of 2 tiered racking; work towards exclusive picking from 1 tiered racking.

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.





**Citation and Notification of Penalty**

Company Name: SUPERVALU HOLDINGS INC  
Inspection Site: 7100 Hazelwood Ave., Hazelwood, MO 63042

3. Investigate rack redesign to minimize reaching, such as, but not limited to, slotting heaviest cases between approximately 2 to 4 ft; reduce or eliminate lifting 40 lb or more over 4 ft.; limit pallet stacking height onto pallet jacks so that the bottom surface of the topmost layer of boxes is no higher than 5 ft.
4. Instruct forklift operators to reorient partially depleted pallets 180 degrees so that product remains more close to the front of the slots.
5. Ensure, through training and formal enforcement, that order selectors do the following: use safe work practices, including proper lifting, bringing product to chest before lifting, avoid twisting and lifting; no reaching across pallets, no standing on pallets to reach. Training and enforcement should be documented.
6. Instruct order selectors not to twist their back by taking a step before stacking boxes onto pallet jack; instruction may need to include parking pallet jack at a slightly greater distance from racking so that a step can be taken.
7. Ensure that safe work practices are used by order selectors during all standards studies.

Abatement of the citation shall be accomplished in accordance with the following schedule:

Step I: Submit to the Area Director in writing, by August 22, 2003, a detailed plan on how abatement methods will be developed and initiated.

Step II: Submit to the Area Director in writing, by September 22, 2003, a detailed plan and schedule for the implementation of engineering, administrative, and work practice controls. This plan shall include target dates for the following: 1. evaluation of engineering, administrative, and work practice control options, 2. selection of control methods, 3. Procurement, installation/implementation of controls, 4. testing, acceptance, modification of controls.

Step III: Submit to the Area Director in writing, progress reports of ergonomic injuries and status of controls. Reports shall specifically address measures affecting order selectors, including recordable injuries with details on lost/restricted days and surgeries. Progress reports shall be submitted at 3 month periods, beginning September 22, 2003 and until the final abatement is made and the case is closed.

Step IV: Abatement controls shall be in place by May 24, 2004.

Unless a Petition for Modification of Abatement is granted, final abatement will be on August 20, 2004. A monitoring inspection(s) may be conducted during the abatement process, or a follow-up inspection after final abatement.

Date By Which Violation Must be Abated: 08/20/2004  
Proposed Penalty: \$ 6300.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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**Citation and Notification of Penalty**

Company Name: SUPERVALU HOLDINGS INC  
Inspection Site: 7100 Hazelwood Ave., Hazelwood, MO 63042

**Citation 1 Item 2 Type of Violation: Serious**

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to fall hazards:

- a. In the perishable warehouse, where employees were elevated by forklift when standing on a pallet without fall protection, such as a safety cage specifically designed for being raised by a forklift and/or personal fall arrest system. The condition existed when product being placed or removed from storage racks, falls from the pallet into the racks and is required to be put back in place. Employees were elevated up to 20 ft and exposed to a fall to the concrete floor.
- b. In the perishable warehouse, where employees climbed storage racks to put back in place boxes of product fallen from pallets during material handling by forklift operators. Employees were exposed to a fall to the concrete floor while climbing racks up to a height of approximately 10 ft.

**ABATEMENT METHODS**

Feasible means to correct these hazards include supervision and enforcement of the company's previously established methods of elevation by forklift while in a safety cage adequately attached to the forklift forks/mast and employee use of a safety harness attached to a lanyard, attached to a secure location on the cage.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations(s).

Date By Which Violation Must be Abated: 06/18/2003  
Proposed Penalty: \$ 6300.00

*for Thomas H. McDonald*  
William D. McDonald  
Area Director

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See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**SUPERVALU MEETING HELD ON JUNE 5, 2003  
AT 1:00 AT THE ST. LOUIS OSHA OFFICE**

In ATTENDANCE:

OSHA

Bill McDonald, OSHA

*EYE 70, 70*

Supervalu

John Settlemyer, Warehouse Mgr

B.J. Strassburger, Risk Control Mgr

Steve Love, Corporate Risk Control

Steven R. Pelkey, Facility Director

Union

Pat Raftery, Business Agent

Dan Miller, Worker

Carl Williams, Perishable Chief Steward

Tom Moser, Perishable Secretary

Rick Seaman, Grocery Chief Steward

Rick McMahon, Worker

Gene Sandrowski, Worker

Percy Mayes, Worker

Steve Love was the main spokesperson. He quoted Secretary Chao and Asst. Secretary Henshaw several times during the discussion, which was "we are not to focus on those companies that have proven ergonomic improvement efforts and have shown a good faith effort" and "OSHA would not spend any money enforcing ergonomics." He then asked that OSHA withdraw the citations and he would state the reasons.

Mr. Love's statements were as follows:

During the fiscal year from March 1, 1999 to February 24, 2003, Supervalu has had a 36% decrease of injuries and 26% decrease of material handling injuries. Broken down, grocery had a 68% reduction and perishable had a 49% reduction.

He stated another statement by Asst Sec Henshaw wants 20% reduction in the next 5 years and Supervalu is meeting that.

Injury rates are shared with managers and employees along with pertinent information and safety items.

Slotting information is tracked by weight and velocity (movement of product) and employees can give input. The company has a slotting committee.

Injury Prevention - When hiring new employees, they are given a pre-screening aerobic test (screening that measures heart rate) to ensure that they have the physical requirements and it is based on a middle-aged woman.

79% of perishable selectors have been pct tested at the clinic.

41% of grocery selectors have been pct tested at the clinic.

After an employee is hired, lifting training is on going.

Formal job observations are done while workers are on-the-job using a checklist. Feedback is given to employees on how they did and what they can do to improve. In 2000-01, a stand-alone observation process for 18 months to observe employees at work was implemented using checklists. Feedback was given to employees with comments on how to improve their job.

When an employee returns from an injury, he/she receives coaching on how to recover properly.

Cart-Racking - Raises products up 14" to the employee - Used in 70% of the 2 or 3 deep slots in perishable.

In 1998, pallet-rounding process began - Full pallets are shipped, not partial, so the employee does not have to partially empty a pallet.

Medical Management - Supervalu has on-site medical. Medical doctors visit for 2 hours every week.

He stated that Citation 1 has mistakes: The citation states that average pieces per day is 1714 and the correct figure is 1521. The citation states that the average weight per day is 37,000 lbs and the correct figure is 31,000 lbs.

Pat Raftery, a union business agent, stated that the workforce is increasing in age and that has to be taken into consideration. He stated that the worker may have the ability but it does not mean that it is safe for them to perform some duties. The problems that factor in is weight, speed, age, gender, where you have to stack it, etc.

Gene Sandrowski stated that Supervalu does not have a slotting committee and that his order today was over 35K lbs.

B.J. Strassburger stated that 6 to 8 employees are tested every 3 weeks (?) with heart rate monitors.

*EXE, 7c* asked why is the energy demand for grocery less than for perishable? He also commented on the company's Job Observation policy - it is always after an injury has occurred. The job observations are done randomly and not consistently. He said the problem is the lack of consistency on the ergo program - there are no meetings and no documentation.

B.J. Strassburger stated random job observations have not been held in the past year and a half.

Steve Love stated that Supervalu was showing a good faith effort.

*7c, 7e* said that 38 out of 100 employees experiencing injuries is a very high number.

Steve Love disagreed with John's statement because OSHA is using a partial study and not for the entire facility.

*7f, 7e* said that between 2000-02 there were no improvements in the perishable order selector injury rate. He stated that the workers' and management's statements never agree,

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and that the management needs to give creditability to the workers' statements on what departments are more difficult.

A worker stated that 8 to 9 months ago, various workers' committees were formed and the committees were dissolved by John Settlemyer.

Bill McDonald asked the question, "You hit the 20% reduction mark in 1999; how come improvements have come to a stop?" Bill said that there have been no improvements since 99 and, in fact, it has increased.

Bill McDonald asked why the grocery side was decreasing and the perishable was not?

Mr. Love stated that the configurations and the weight of the boxes in perishable could be the reason, that dairy for example has lighter weights.

The union commented that seniority bids into produce because they believe it is less demanding and that the newer workers go to dairy.

Bill McDonald voiced his concern over the physical measuring test. He said that the test measures the capacity of work and not the stressors on the body. He said that this does not ensure an effective ergo program. Bill stated that he has not heard any information to consider withdrawing the citation but will consider increasing abatement time if needed.

Bill asked, "Why do 28 other facilities in their company have better rates?" Steve Love said he had no good answer. Bill McDonald asked if Mr. Love felt they could take measures to reduce ergo injuries. Mr. Love agreed they could. Mr. Love again recited Chao and Henshaw and asked that the citations be withdrawn.

Bill inquired if there was any room, short of withdrawing, for negotiating extended time frames to abate or any other measure. Mr. Love stated there was not. Bill said that no further discussion was needed.

Steve Love stated that they would contest Citation 1.

**Regarding Citation 2:** Steve Love stated that Supervalu acted promptly to resolve the problem and are not disputing the citation. He requested a reduction.

B. J. Strassburger stated that most training on the forklift issue has been completed. After hearing this, the perishable employees that were present stated that they have not had the training.

Bill McDonald stated that OSHA would consider a 25% reduction due to the fact that he does not feel comfortable with the problem being totally abated. He said that he would contact Steve Love on the settlement procedures for Citation 2.

Steven Pelkey inquired of Bill McDonald that if he could prove differently that the training was done adequately, would the reduction be 50%? Bill stated "No".

Bill McDonald requested the documents presented at the informal since the company was asking for them back. Mr. Love stated they would send them

Meeting was finalized at 2:06 on 06/05/2003.

EXE 7C



# Inspection Narrative

11/20/03 May 20, 2003 2:44pm

Inspection Nr.	305630808
Opt. Case Number	03-23

Establishment Name	SUPERVALU HOLDINGS INC		
Legal Entity		Type of Business	Grocery warehouse

Additional Citation Mailing Addresses

Organized Employee Groups

Teamsters  
Local: 688 (314) 658-5760  
500 S Grand  
St. Louis, MO 63103  
Mail Citation? Y

Authorized Employee Representatives

EXE 70

Employer Representatives Contacted

Name	Title	Function	Walk Around?
BJ Strassburger	Loss Control Mgr	IO	Y
John Settlemeyer	Warehouse Operations Mgr	IO	Y
Steve Pelkey	General Mgr/Facility Dir	IO	N
Chris Muser	Perishable Warehouse Mgr	M	Y

Other Persons Contacted

Martha Nennich LHI, Mr. Vanderharer(314)658-5600  
Nurse Medical Records - 300 S Grand  
St. Louis, MO 63103

Entry	11/22/02	First Closing Conference	5-21-03
Opening Conference	11/22/02	Second Closing Conference	
Walkaround	11/22/02	Exit	5-21-03
		Case Closed	

Penalty Reduction Factors

Size	0	Good Faith	0	History	10
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Followup Inspection? Reason

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Coverage Information/Additional Comments

**NATURE/SCOPE:**

A formal complaint was received by a union member of the facility. Much of complaint involved ergonomic hazards, but also included were unsafe forklift operations. The facility, a food distribution warehouse, was last inspected in 1999 and 1997 when 5(a)(1) letters were issued for ergonomic hazards.

**OPENING (10-4-02):**

The first opening was held in 10-4-02, when the forklift items were addressed. CSHO Joyce conducted the opening. According to his case file information, both mgt and union representation was present and agreed to participate in the inspection.

**INSPECTION (10-4-02):**

During the initial part of the inspection medical records were reviewed. CSHO Joyce believed that there might be evidence that the company had elevated numbers of ergonomic injuries. After bringing this to the attention of his supervisor, the regional ergonomics coordinator was contacted and plans were made to look into the ergonomics part of the complaint in more depth. By 11-22-02, the regional ergonomics coordinator, in consultation with her supervisor, established that an ergonomics hazard existed and that an ergonomics inspection would be required.

**2-3-02:**

A meeting was held at the Region VII office to discuss the case and make decisions on how we would proceed. Upon return to the SLAO, and working with regional and the solicitor's office personnel, I began planning the completion of the ergonomics case.

**2-19-03:**

An on-site visit was made to the site for discussion with management personnel (BJ Strassburger, Risk Control Manager; John Settlemyer, Warehouse Mgr; and a short statement from the Facility Director or General Manager, Steve Pelkey; CSHO Seeger accompanied me) and to videotape the warehouses. During our discussion, the job function of the order director was discussed, characteristics of the product handled, how the product was handled, rate of work and standards developed for rate of work, physical characteristics of the facility, equipment, physical changes to the warehouse, existing programs, management structure, corporate structure, and personnel issues (see 2-19 summary notes). On this day only the freezer, meat, and produce departments of the perishable warehouse was able to be videotaped. A number of requests for information and documents were made. The videotape was analyzed and we began to make calculations on product characteristics (frequency of boxes picked according to weight and slot level and range of weights).

**2-24 to 28-03:**

Employee interviews were conducted on site. During these interviews, employee statements were consistent that the standards (rate of picking) was very difficult in the perishable warehouse, that dairy and meat were the most difficult departments to make standards, that produce was the easiest department to make standards, that many employees have experienced ergonomic injuries with a high severity rate level (LWDII), that they had experienced multiple injuries for the same body part, that the injuries were associated with lifting and reaching, and that they have had multiple problems with medical management. These problems included, being required to work with pain, being told that their injuries were not work related, that no injury existed, and that medical providers often suggested to injured employees that they look for other employment. We also learned that employees were routinely elevated on a forklift support pallet to re-stack boxes that had fallen during forklift material handling. Although the company procedure was to use a man basket attached to the forklift and to use a harness and lanyard, they rarely did this to re-stack boxes and that supervisors must have known that it was occurring since the boxes obviously were re-stacked and that supervision knew that spill occurred.

**3-5-03:**

Completed employee interviews at the union hall.

**3-6-03, 3-10-03, 3-17-03:**

Phone interviews were conducted with corporate engineers that developed the standards. Of significance is that the company uses industry Master Standard Data (MSD) to develop standards. This data was developed in the 1960's from original data collected in the 1920's. Engineers believed the standards developed were fair; however, they stated they were unfamiliar with the injury incident rates that were occurring at the facility. They stated the standards development was the same for all their 32 facilities (some slight difference in two methods used, but for all practical purposes the results achieved were the same).

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11-03:

The grocery warehouse was videotaped. Picking was by the same method. Found that the 3 tiered racking layout was different than in perishable. Chief steward Rick Seaman brought up some issues about unsafe driving of the forklift, and about two accidents that occurred involving forklifts and operators being pinned against the rack.

3-11-03 to 3-13-03:

Copied medical records on site (CSHO Seeger and SH Assistant Stussie). On 3-13 I had a phone discussion with Jennifer Minamoto, an engineer contracted by the union to do a study of the standards developed by the company. Some of her main concerns were that there was no direct fatigue factor nor age factor, there was inadequate aisle time, and that employees did not use the preferred methods when they did their work. She also believed the MSD data was outdated, having been developed in the 1960's.

3-25 to 3-26-03:

Dr. Fadi Fathallah was on site and conducted lumbar motion studies on order selectors in perishable and grocery warehouses. At the end of the second day, a brief meeting was held with Dr. Fathallah, BJ Strassburger, and Steve Love, Risk Mgr from the Supervalu corporate office. An explanation for the equipment was provided and the measurements made, i.e. bending, twisting, and side-to-side movement. In response to a question, Dr. Fathallah's impression was definitive that the amount of these movements around the back were excessive and would exceed accepted levels.

4-4-03:

Citations from inspection 305626830 were hand delivered to BJ Strassburger. SH Assistant Stussie accompanied me. BJ Strassburger would not sign the receipt, as directed by her superiors.

4-7-03, 4-11-03, 4-16-03:

Management interviews were conducted. Most significant was that all managers (including the on-site nurse, contracted physician, and on-site analyst) stated their belief that a significant number of injuries were for other than work related conditions. I reviewed the definition and description of work relatedness, and there was obvious misunderstanding about what is work-relatedness especially "aggravation" of a previously existing condition. It was also obvious that there was grossly insufficient coordination and communication between production managers, medical personnel, risk control, and corporate. For example, on 3-25 or 3-26 I asked Mr. Love and BJ Strassburger if there was any data collected where the success rate of order selectors could be calculated, i.e. which departments showed the greatest achievement of obtaining standards (and for individuals). Both said that no data existed and they also implied the helpfulness of such data. I stated that since the ee's indicated that certain departments were more difficult than others and that grocery was easier than perishable that it seemed that such data would be very useful, if for nothing else to be able to show ee's why their perception was incorrect. However, when interviewing the on-site analyst, Eric Somehell, who has been in the position for about a year, he stated that the data had been collected and has been provided to the facility director, Steve Pelkey, for about a year. He said that he did not provide the data to other managers and did not know if Mr. Pelkey did anything else with it. What is most revealing, is that when I calculated the average success in per cent, the figures indicated exactly what the ee's had said, that dairy and meat were most difficult to achieve standards and that produce was the easiest (~100%). It also showed that grocery was easier than perishable (although the difference was slight). Managers were unsure about any ergonomic program. They believed that injury rates were calculated, when asked if specific rates for order selectors (and for ergonomic injuries) were calculated. However, it was shown to them that these rates were not calculated. There was much inconsistency about whether a safety committee existed and to what extent a slotting committee existed. BJ Strassburger did not know if monthly shift meetings actually included the safety information she provided - there was no documentation.

5-5-03:

An on-site interview was conducted with the 2nd of 2 physicians that provide medical services one day a week on site. The physician was Dr. Kia Swan-Moore, who has worked on site for a few years. Of significance is that Dr. Moore was directly asked about why she told an employee that his CTS symptoms could not have resulted from work as an order selector. I stated that according to my experience and based on my observations, along with observations of our consultants and Wash DC physician that there was good reason to believe that the order selector work could result in CTS. I also pointed out that CTS had been acknowledged as work related in previous cases. She stated that she stood by her belief that CTS could not result from order selecting.

8 to 5-10-03:

Dr. Robert Harrison, consulting physician, interviewed/examined employees at the Teamsters union hall. This was after Dr. Harrison had reviewed the files and made a suggested list of employees to see. On 5-8, Dr. Harrison and I visited the site, all departments, for his direct observation of the work performed.

After viewing the work and interviewing employees it was Dr. Harrison's conclusions that the work did result in MSD injuries and the cases examined were work related. He further concluded that the work postures were such that shoulder and back injuries would be highly expected. He also believed that CTS, although not expected to be common, would be expected to occur and the specific employee examined, Chris Williams, did have CTS that was work related.

CLOSING (5-21-03):

In attendance were Steve Pelkey (facility director), BJ Strassburger (facility risk control manager), John Settlemyer (warehouse manager) for the company; Steve Love (corporate risk control manager), Rod Hoover (corporate engineer) from the corporate office; Pat Raftery (union BA), Carl Williams (on site union pres - perishable), Rick Seamon (on site union pres - grocery); and myself for OSHA. Citations were presented, explained, and suggested abatements reviewed. Mr. Love stated that if all the recommendations were implemented the company could not feasibly operate because of costs. He also stated, as has been done in the past by several managers, that the company is at a loss as to what to do. I emphasized that the injuries reviewed were work related, and that the hazards existed and have been well documented by our consultants and according to research literature. I also pointed out that because the company recognizes that other facilities of theirs have injury rates in the single digits that there must be differences and because of their years of experience they should be the most qualified to recognize what those differences are (During the inspection the company had argued both that the facilities are the same and therefore there is difficulty in determining differences, but then they also argued that each facility is unique and the facilities couldn't be compared. This was after I attempted to discuss with Mr. Pelkey that I was told by an employee that worked at both the Scott City facility and St. Louis, that the working conditions were much more conducive to safety at Scott City than at St. Louis. This worker had offered, what were administrative types of controls, suggestions to correct hazards). Both union presidents brought up that there was extra space in each of the warehouses that could be utilized to reduce 3 tiered and 2 tiered racks. No company person made a comment. After several recommendations were made and after Steve Love made comments about not being able to implement the control, I pointed out that it seemed that the attitude was "I can't do that." I suggested that the company research and investigate what could be done and perhaps be somewhat creative in possible solutions. I also suggested that the company accept the cooperation of employees to investigate controls.

I also emphasized that it became obvious during management interviews that there was an attitude that a significant number of injuries were not work related but instead employee personal conditions that resulted in injuries. I stated we had a number of individuals review the records and video, and make on-site visits, and the unanimous conclusion was that hazards did exist and that it would be highly expected that ergonomic injuries would result from the work performed by order selectors. And most conclusively, that the injuries have actually occurred. Mr. Love asked if ee's were being treated and if the injuries were being recorded what was the problem. I stated that I believed that if management was of the mindset that injuries were not work related then medical management could suffer in various intangible, but also direct ways. I offered that

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Worksheet

Thu May 22, 2003 10:25am

		Inspection Number	305630808		
		Opt. Insp. Number	03-23		
Establishment Name	SUPERVALU HOLDINGS INC				
Type of Violation	S Serious	Citation Number	01	Item/Group	001
Number Exposed	47	No. Instances	1	REC	C Complaint
Std. Alleged Vio.	5.a(1)				

Abatement Period	MultiStep Abatements			Final Abatement	Action Type/Dates
	PPE Period	Plan	Report		
311				08/20/04	
Abatement Documentation Required				Y	Date Verified

Substance Codes	
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AVD/Variable Information:

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical harm to employees, in that employees were required to perform lifting tasks resulting in stressors that had caused, were causing, or were likely to cause musculoskeletal disorders (MSDs):

a. At the Supervalu warehouse facility, order selectors were required to lift weights up to 77 lbs or more (at an approximate average of 1714 pieces per day and a total weight of 37,025 pounds), and to twist, reach, bend, and lift when selecting pieces and loading them onto pallets. The evaluation of this manual lifting task indicates that employees are exposed to hazards that are causing or likely to cause MSDs, including low back pain (LBP) and shoulder related MSDs, as shown by a review of the company's injury and illness records from 1998 to the time of the inspection, which document that a significant number of MSDs have been caused by exposure to stressors; including 6 shoulder surgeries in 2001 and 2 shoulder surgeries in 2002.

ABATEMENT METHODS

While some ergonomic related risk factors can be reduced or eliminated by implementing a single means of abatement, in most cases a process using components, such as the following, will provide the most effective method of addressing the factors.

- (1). Worksite analysis to recognize and identify existing MSD hazards, including workplace manual lifting and reaching. This analysis should include development and use of an ergonomic checklist and employee questionnaire. Periodic surveys of the workplace should be conducted at appropriate intervals to evaluate work practices and engineering controls. Employee participation in this process should be encouraged.
- (2). Medical management which includes accurate recordkeeping of MSD's, such as manual lifting and reaching injuries. The protocol should address early recognition, evaluation, and referral of MSD cases. Systematic worksite review by the medical team should also be included.
- (3). Training and education for exposed employees, including methods to evaluate the effectiveness of the training. Re-training should be done annually, or as operations change. Training should be done in a manner understandable by all employees and address hazards associated with the job, early recognition of ergonomic injuries and illnesses, the risks of manual material handling, and how to prevent MSDs, including manual lifting and reaching injuries. Training should also be provided to management. A supervisors' training program should also be implemented to allow recognition of MSD hazards. The training program should include the establishment's health care providers to ensure that they are able to recognize and prescribe appropriate treatment for MSDs. Educational material or training on ergonomics should be provided to people responsible for designing jobs and buying equipment, tools, workstations, and parts.
- (4). Hazard prevention and control which includes engineering, administrative, and work practice controls

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(a). Engineering controls are designed by a qualified ergonomist and may include workstation redesign, tool and handle redesign, and use of mechanical lifting aids. The goal should be to make the job fit the person, not vice versa. Examples of engineering controls applicable to this workplace include:

1. Investigate obtaining stand-up pallet jacks with forks that can be raised up to 3 ft so that less bending is required for order selectors to place cases on the pallet.
2. Place self-adjustable palletizers on presently used stand-up pallet jacks to reduce bending during initial placement of cases; phase in adjustable palletizers in slots with heaviest, fastest moving products or use wooden pallets in slots to raise heaviest, fastest moving products.
3. Work with suppliers to provide cases/boxes with hand cut outs on heavy and large/long cases, such as 25 lbs, but especially when 40 lbs or more.

(b) Administrative controls are implemented which reduce the duration, frequency, and severity of exposure to MSD hazards. These controls may include job rotation, reduction of repetitions, multiple person lifts, and preventive maintenance of related equipment. Examples of administrative controls include:

1. Investigate the inclusion of fatigue, age, and injury factors (e.g. those employees that have been injured, and have been released for full duty, but because of injury or accumulated injury are no longer able to keep pace as before injury) into time standards.
2. Overtime should be kept to a minimum or eliminated in so far as possible.

(c) Work practice controls are implemented which include proper work techniques, new employee conditioning, proper placement of loads, and reduction of weight lifted. Examples of work practice controls applicable to this workplace include:

1. Work with suppliers to reduce case weights (such as meat) to 40 lbs; or make purchases only from suppliers with reduced case weights.
2. Eliminate picking from 3 tiered racking; reduce number of 2 tiered racking; work towards exclusive picking from 1 tiered racking.
3. Investigate rack redesign to minimize reaching, such as, but not limited to, slotting heaviest cases between approximately 2 to 4 ft; reduce or eliminate lifting 40 lb or more over 4 ft.; limit pallet stacking height onto pallet jacks so that the bottom surface of the topmost layer of boxes is no higher than 5 ft.
4. Instruct forklift operators to reorient partially depleted pallets 180 degrees so that product remains more close to the front of the slots.
5. Ensure, through training and formal enforcement, that order selectors do the following: use safe work practices, including proper lifting, bringing product to chest before lifting, avoid twisting and lifting; no reaching across pallets, no standing on pallets to reach. Training and enforcement should be documented.
6. Instruct order selectors not to twist their back by taking a step before stacking boxes onto pallet jack; instruction may need to include parking pallet jack at a slightly greater distance from racking so that a step can be taken.
7. Ensure that safe work practices are used by order selectors during all standards studies.

Abatement of the citation shall be accomplished in accordance with the following schedule:

Step I: Submit to the Area Director in writing, by August 22, 2003, a detailed plan on how abatement methods will be developed and initiated.

Step II: Submit to the Area Director in writing, by September 22, 2003, a detailed plan and schedule for the implementation of engineering, administrative, and work practice controls. This plan shall include target dates for the following: 1. evaluation of engineering, administrative, and work practice control options, 2. selection of control methods, 3. Procurement, installation/implementation of controls, 4. testing, acceptance, modification of controls.

Step III: Submit to the Area Director in writing, progress reports of ergonomic injuries and status of controls. Reports shall specifically address measures affecting order selectors, including recordable injuries with details on lost/restricted days and surgeries. Progress reports shall be submitted at 3 month periods, beginning September 22, 2003 and until the final abatement is made and the case is closed.

Step IV: Abatement controls shall be in place by May 24, 2004.

Unless a Petition for Modification of Abatement is granted, final abatement will be on August 20, 2004. A monitoring inspection(s) may be conducted during the abatement process, or a follow-up inspection after final abatement.

Penalty Calculations				Adjustment Factors			Proposed Adjusted Penalty
Severity	Probability	Gravity	GBP	Size	Good Faith	History	
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H High	G Greater	10	7000.00	0	0	10	6300.00
Repeat Factor		0					

Employee Exposure:							
Occupation	Order Selector	Employer	Supervalu				
Nr. of Employees	91	Duration	6 yrs	Frequency	daily		
Employee Name	EYE 7C						
Address							
Occupation	Order Selector	Employer	Supervalu				
Nr. of Employees	47	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	supervalu				
Nr. of Employees	47	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	47	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
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Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							
Occupation	OS	Employer	Supervalu				
Nr. of Employees	44	Duration	yrs	Frequency	infrequent		
Employee Name	7C						
Address							

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Nr of Employees	44	Duration	yrs	Frequency	infrequent
Employee Name	7c				
Address	7c				
Occupation	OS	Employer	Supervalu		
Nr of Employees	44	Duration	yrs	Frequency	infrequent
Employee Name	7c				
Address	7c				

Instance Description:	A. Hazard	B. Equipment	C. Location	D. Injury/Illness	E. Measurements
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4. Date/Time
11-22-02

20. Instance Description - Describe the following:

a) Hazards-Operation/Condition-Accident: Ergonomic hazards associated with order selecting. Order selectors operate stand-up, electric pallet jacks with forks that accomodate 2 48x40" pallets. After loading pallets onto forks and obtaining an "order" which lists the products/pieces to be picked, employees drive to the aisles to begin picking. In the perishable warehouse, 4 depts exist including produce, dairy, meat, and freezer. Depending on seniority, ee's bid for working in the different departments, but it is common for ee's to work in any of the departments in perishable. There is no crossover between the perishable and grocery warehouses, which are 2 separate warehouses and buildings. The aisles consist of either 1, 2, or 3 tiered racks (or slots) with faster moving products located in the 1 and 2 tiered racks. One tiered racks also include roller racks. The work requires much bending at the waist, twisting, and reaching, especially in the bottom and top slots of the 3 tiered racks, but also reaching in the top of the 2 tiered racks (see 20.e. for lumbar motion measurement results). Ee's are provided a "hook" which is used to pull boxes towards them. Product is arranged so that most of the picking is done from more heavy boxes selected first and used to form the base of the stack on pallets, but this is not always done (as indicated on accident reports, e.g. 7c 1-25-02 (back, 80 lbs), 9-6-98 (shoulder, 50 lbs) 7c 3-25-01 (shoulder, 58 lbs), 7c 8-23-02 (shoulder, > 50 lbs) 7c 3-20-01 (shoulder, 32 lbs); 7c 2-28-02 (shoulder, 91 lbs); 7c 3-27-01 (shoulder, 50 lbs). Pallet forks can be raised several inches but no more. When pallets are emptied the ee pulls the pallet out and sets in the aisle for the forklift driver to remove. During 2003 the picking process was modified so that a full time inventory control person identifies those products that are close to depletion within a picking slot so that a full pallet is placed before the product is completely removed from a slot. Whereas in the past when the product was not available, the ee called for more product to be placed in the slot and had to come back later to fill his order, which required more time, and potentially resulting in cases being lifted to 5 ft or more; but with the increased efficiency the inventory control person currently calls a forklift driver to replace the product before slot depletion ("shorts" still occur but at a reduced frequency). In addition to bending, twisting, reaching, and carrying heavy boxes (up to at least 76 lbs as identified in audit trails and also as described on accident reports, listed above; other examples are 7c 10-13-02 (shoulder, 60), 7c 4-21-02 (low back, 50 lbs), 7c 11-17-02 (waist, 50 lbs), 7c 11-15-02 (wrist, 50 lbs) 7c 4-30-02 (back, 70 lbs); 7c 3-28-01 (shoulder, 73.9 lbs) 7c 9-2-99 (chest, 60-80 lbs)), ee's were also exposed to the hazard of standing on pallets to reach product, which has resulted in twisted ankles and knees (even though mgt states that ee's are not to stand on pallets to reach product).

The Meat dept. consists of the heaviest boxes (at least 76 lbs), however Dairy and Freezer also includes boxes exceeding 50 lbs, and in Produce there are 50 lb bags of potatoes and other vegetables. Order selectors can pick approximately 1700 pieces per day, but can be more than 2000. An approximate average of 37,000 lbs per day can be handled, although the total weight can be up to and exceed 50,000 lbs. Pallet height is supposed to be limited to 6'6" however ee interviews and our observations showed that this height can be exceeded.

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Total volume ("cube") is supposed to be limited to 140 cubic ft per order and 120 for meat. Ee's complete from approximately 8 to 12 orders per day.

Grocery warehouse operations were similar to perishable; however no distinct departments exist. There are "breaks" within grocery. The heaviest items in grocery are: aisles 1,2 contain canned goods (~30 lbs), aisle 6 is bottled water (up to 50 lbs), aisles 8, 9 contain detergents (~32 lbs or more).

(Injury descriptions are listed in 20.d.)

b) Equipment: metal racking, including 1, 2, 3 tiers; roller racks; racks from 1 pallet to 3 pallets deep; 1 slot racks were 70" to 74" from floor to crossbar, 2 slot racks were 50" (floor to crossbar) and about 54" to 98" to 101" to second crossbar, 3 slot racks were separated approximately every 30" with the 3rd crossbar at 95" to 100". Roller racks consisted of 2 moveable racks that overlaid one fixed rack, therefore accommodations for 3 racks. The heights were 10", 11", and 13". Perishable had ~50 Crown pallet jacks (Type E, Model PC3540-80, truck weight 2198 lbs, capacity lift 8000 lbs, max fork height 9") and grocery used ~30 Raymond pallet jacks (Type E, Model 113TM-FRC80L, truck weight with max battery 3350 lbs, max capacity 8000 lbs)

c) Location: Hazards most importantly exists in the perishable warehouse

d) Injury/Illness: Injuries mostly have occurred to the back and shoulders, but also includes elbows, knees, hand/wrist; current perishable, order selector rate is >33 and in grocery it is ~7.6 (for ergonomic injuries only); there were 6 surgeries in 2001, and 3 surgeries in 2002; several surgeries are either planned or being discussed for 2003 (these are surgeries involving ergonomic injuries only; other surgeries also occurred). Of the current 47 perishable warehouse order selectors, 38 have experienced an ergonomic injury since 1998 (often with multiple injuries, over 15 ee's).

e) Measurements: Production rates were explained in 20.a).

Consultant Dr. Fadi Fathallah and his assistant provided the following measurements using a Lumbar Motion Monitor (The Chattecx Corp, Hixon, TN): Average Twisting Velocity (deg/sec) - Freezer (12.3), Meat (12.8), Dairy (12.8), Produce (12.8), Grocery (12.8 & 12.8); Maximum Moment (ft-lbs) - Freezer (32.9), Meat (60.3), Dairy (46.3), Produce (70.8), Grocery (46.3 & 32.9); Maximum Sagittal Flexion (deg) - Freezer (22.5), Meat (22.5), Dairy (22.5), Produce (22.5), Grocery (22.5 & 22.5); Maximum Lateral Velocity (deg/sec) - Freezer (65.7), Meat (41.6), Dairy (46.1), Produce (50.9), Grocery (46.1 & 50.9). Using the Low BACK Disorder Risk Model (LBD) developed by Marras et al. (1993), Dr. Fathallah found that all 5 departments had risk above a 70% level and up to 82% in Meat and Produce (but it was pointed out that only average weights were used in the determination vs. maximum weights). This level indicates that the order selector position, with respect to risk to back injury, would be described as "high risk" (the Marras study showed that risk above 70% was high risk, between 61% and 70%, 94% of the study jobs were high risk, and between 51% and 60%, 70% of the study jobs were high risk).

Using research studies, Dr. Fathallah showed that repeated shoulder postures with greater than 60 degrees flexion and/or abduction of the shoulder and because of overhead lifting results in shoulder musculoskeletal disorders (MSD's). Using videotape of the work in each of the departments, Dr. Fathallah calculated that 49% of the lifts in Freezer were above the shoulder and greater than 60 degrees flexion and/or abduction, 27% in Meat, 58% in Dairy, 50% in Produce, and 59% & 70% in Grocery. He concluded that the order selector job placed employees at an increased risk of shoulder injuries.

Brett Besser, OSHA SLC, calculated a composite lifting index (CLI, NIOSH Revised Lifting Equation) of 5.5 for employees in the Meat Department. Risk of injury is slightly increased when the index exceeds 1, most workers are at risk when the index exceeds 3. Also in the Meat Dept, a Lifting Index (LI) of 4.5 was calculated (a single lift considered vs. the entire lifting task that was used to calculate the CLI). This indicates that the lift was 4.5 times heavier than what a safe lift should be. Mr. Besser indicated that a lift of 50 lbs can be

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made, according to NIOSH criteria, only under the most ideal circumstances, which did not exist at the worksite as seen by the CLI and LI.

LWDII/severity rates specifically for order selectors were 38/1655 for perishable and approx. 10/68 for grocery. Of the current 47 order selectors 38 order selectors had experienced ergonomic injuries since 1998. There were 3 surgeries as a result of ergonomic injuries (2 shoulders, 1 wrist) in 2002 and 6 surgeries (all shoulders) in 2001.

According to analysis of company injury records (2002) compared to BLS data (2000 data), Drs. Ruby and Ortiz, of the OSHA National Office, found a "strong" cause and effect relationship for ergonomic injuries in the perishable warehouse for order selectors (a "moderate" effect in grocery). (However, the BLS data was only specific to a SIC code of 514 ("groceries and related products") and not to any specific warehouse type nor to the order selector position.) For backs and shoulders, the relationships were "infinite" for the perishable warehouse ("strong" for grocery), indicating that back and shoulder injuries are highly probable to be a result of working at the perishable warehouse. (There was a "strong" relationship for the grocery warehouse.) The severity (number of lost/restricted days) rates also supported a "strong" relationship.

21. Photo Number	Location on Video

23. Employer Knowledge :

INJURIES AND INJURY INCIDENCE RATES

The risk control manager calculates materials handling injury incidence rates by "periods" (every 4 weeks) and the overall injury rates, which are distributed to all managers (however rates specific to order selectors and for ergonomic injuries exclusively are not calculated; the risk mgr does break out to "material handling" injuries which would include ergonomic injuries but also specific event injuries such as pulling out an empty pallet too aggressively and straining a muscle); all mgrs are aware of the injuries that have occurred, because the risk control mgr periodically provides information to mgrs on specific injuries and where possible controls are discussed during monthly shift meetings with employees (such as general information on proper lifting; but the risk manager did not follow-up on these monthly shift meetings or document that the information was actually provided to employees). Managers are also aware that injuries involve ergonomics (not necessarily by the term of ergonomics but by an understanding of cumulative trauma type of injury; as found during management interviews), and that surgeries have occurred as a result of employees working as an order selector. This information is sent to the corporate office; however, there did not seem to be any specific action taken by management or corporate to address the increasing and high rate of ergonomic injuries occurring in the perishable warehouse. This conclusion comes after requesting information of action taken from the risk control mgr, from other on-site managers, and from discussion with the corporate risk control mgr (as discussed below).

WORK PERFORMED

The facility director, superintendents, supervisors, and the risk control mgr are fully aware of the tasks performed by the order selector, the equipment used, and the racks from where product is picked; these mgrs are aware of the weights of product, and the approximate rate of picking; all mgrs are aware of "preferred methods" which include "safe" lifting technique, not reaching across pallets, use of hooks, and the "Z" pick method, but that these methods are not consistently used (and that no written discipline is made unless an injury occurs or unless an order selector does not make the standard).

5(a)(1) LETTERS

The facility director and the risk control mgr were aware that 5(a)(1) letters were issued in 1998 and 2000 and that the company response in 2000 was that an ergonomic control program had been developed and implemented, even though during the current inspection it was shown that the program was not fully implemented. When the facility director was asked why he signed the response to OSHA, addressing the 5(a)(1) letter that was sent to the company, he read the response and said that he signs many documents and that the on-site risk control manager probably drafted the letter and was given the responsibility for its contents. When the on-site risk control manager was asked why the letter implied that the company Ergonomic Control Strategy had been implemented in total, her response was not clear. She stated, as she

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had previously, that much has been implemented and that the company is continuing to develop and implement. She referred to the new fiscal year plans to develop an Ergonomic Program, do specific training, improve on accident investigation. (It was pointed out that these initiatives have come after the inspection began.) Mr. Love, the corporate risk control representative stated that the corporate office was aware that a response was made, but left the responsibility to the local warehouse to write the letter and take action. He had said that he believed that the local company had did a good job in developing the program, even though it was pointed out those portions that had not been done. He said that it wouldn't be expected that the plan would be implemented at a 100% level. I responded that I believed the company's plan was well developed with very good procedures and Mr. Love said he agreed. I then said that I saw no reason why it could not be completely implemented especially with the high rate of ergonomic injuries at the St. Louis warehouse.

#### COMPANY WRITTEN ERGONOMIC PROGRAM (CORPORATE DEVELOPED)

The risk control manager is aware of the written Ergonomic Control Strategy that had been issued by the corporate office on approximately 2-18-94 ("developed"), with revisions in 1996, and 2 times in 2001. The risk control mgr stated that she wasn't sure when she first became aware of the program but acknowledges that she has been aware of it for several years. The risk control mgr acknowledged during interview that the program was not fully implemented, e.g. no formal training in ergonomics as required by the program, no specific ergonomic injury calculations, no analysis of observation reports, no enforcement of hook use, no pre-work stretching as indicated in the program, no documented slotting analysis, no ergo committee established, no establishment of RTW jobs, and no tracking of ergo initiatives.

#### SAFETY AUDIT

The risk control mgr, facility director, and other mgrs also stated they know that a safety audit is conducted periodically [every 18 mos] and that an ergonomic portion is included and that results are provided. (Although, at the time of this 1B writing, the written results of this audit have not been seen, but the risk control mgr acknowledged that the above items had not been done and that the company did not receive a "perfect" score on the ergonomics section of the audit.) The risk control mgr stated her belief that even though some ergonomic controls have been made, the company can do a better job which has been ongoing to address injuries.

#### CONTROLS

When documentation was requested and after conducting management interviews, specific ergonomic controls up to the time of the inspection, have been very limited and not nearly adequate to address the high and increasing rate of ergonomic injury occurring in perishable. An informal "slotting committee" has taken some action, with informal contact by employees to committee members on suggestions about re-slotting product and to re-configure a slot (e.g. from 3 tiered to 2 tiered, etc.). However, there was not a written policy, no written procedures, or description of the slotting committee, action taken by the committee was not documented (but there were some rack maintenance repairs documented - 2 sets/lists prior to the inspection provided), there were no written lists or documentation as to who members were, there were no formal and documented meetings, and according to which manager was asked, committee membership was either not known or varied. Union officers were also unsure as to the existence and membership of the committee. At best the committee was informal and unorganized. (The company was asked on several occasions (2-19, 2-27, 3-20) for documentation on the slotting committee.) On 3-20 I was told there were not written procedures for a slotting committee, and since that time the only documentation received was some training provided by an individual with some ergonomics experience (from the company's insurance carrier, Kemper), which was conducted in 4-99. Since that time, whatever slotting committee exists, the membership has varied and no re-training was done. As with the slotting committee, safety committee meetings have been haphazard, definitely not specific to ergonomics, and have not been held since 6-02, with the only item related to ergonomics being a discussion of injuries in general.

New racking was installed for warehouse expansion (1997-1998), but the racking was said to be no different than prior to the expansion, except that it was newer and therefore with less maintenance requirements and with less damage; according to the overall warehouse manager, John Settlemyer. There was reconfiguration of racks predominantly around 2000, and to a lesser extent since that time. After reconfiguration there was a 89% reduction of 3 tiered racks in grocery. In perishable there was a 58% reduction (but this reduction is based on the greatest amount of 3 tiered racking being in place for about 2 years, 1998 to 2000). Prior to building expansion and reconfiguration the amount of 3 tiered racking was more than presently exists but less than from 1998 to 2000. So that the present amount of 3 tiered racking compared to the amount prior to building expansion, amounted to a reduction in perishable of something less than 50%. Pallet jacks accomodating an additional pallet were added approximately 3 yrs ago, but this was for production reasons. Employee observation reports were begun approximately in 2000, but was for those employees not making

standards and for employees that had been injured, regardless of whether the injury was ergonomically related or not (also a reactive vs. proactive approach). No changes to the medical management program have been made for several years, and in fact, some suggestions in the company ergonomic program have not been initiated, i.e. development of alternate duty jobs and no tracking of employees with ergonomic injuries to determine success of medical management.

#### "STANDARDS" (RATE OF SELECTING)

Although employees have continually complained to mgt that standards (for rate of picking) are too high and too difficult to achieve, mgt's position has been that industry accepted procedures to determine time standards have been followed. (But regardless of whether the procedures are accepted industry practice, the incidence rate is greatly elevated, the rate is on the rise at the St. Louis facility, surgeries have resulted, and at least the union contracted engineer has disputed the position of Supervalu that the standards are fair. In particular, this engineer believes, at least a fatigue factor should be directly included in the standard. In addition, this engineer, pointed out that the data used to determine the standards (Master Standard Data (MSD)) is outdated information from the 1960's. She believed many companies are developing their own data from scratch to determine standards. She believed that MSD no longer represents the average person. She also believed it is appropriate to include an "age factor" in standards.) During phone interviews with Supervalu corporate engineers, that developed the St. Louis standards - which they said were developed by the same procedures for all their facilities - stated their belief that the standards represented a level of work that would be safe. They were not aware of the ergonomic injury incidence rates at the St. Louis site. One employee that worked at the St. Louis facility for over a year, and had previously worked at another Supervalu facility in Scott City, MO (no longer in operation) stated that the standards probably were the same, however, in his estimation, the Scott City managers "worked with employees" in order to make the work safe, such as allowing forklift operators to make sure that product was more easily picked, by more frequently pulling out pallets of product when many boxes were to be picked, re-orienting pallets so that boxes were more accessible, and in other ways.

#### FOOD INDUSTRY ASSOCIATION MEMBERSHIP

Supervalu is a member of the Food Marketing Institute, an associate of food manufacturers, warehouseers, and retailers. The organization provides educational materials to members, such as for ergonomic control. The St. Louis on-site risk control manager stated her knowledge of OSHA's web site materials for ergonomic controls. She also stated her awareness of OSHA's attempt to develop an ergonomics standard in the 1990's.

#### 24. Comments (Employer, Employee, Closing Conference) :

25. Other Employer Information :Every manager interviewed (including the risk control (safety) mgr, facility director, on-site nurse, and the on-site analyst) have stated their belief that a significant number of injuries are because of personal conditions and that the company should not be responsible for the injury. Medical records indicate that some specialists (Drs. Gragnani and Rotman), used by the company, have stated injuries are because of congenital disorders, heritage, or body type even though records acknowledge that the injury resulted because of an ee performing work at the workplace, that involves high risk (as identified by OSHA consultants and is indicated by injury rates and much industry data, e.g. OSHA's e-tools, William Marras' report to OSHA, and the union consultant's report (which was not reviewed by the company)). The 2 company employed physicians, that provide initial treatment for most injuries and exclusive treatment for less complicated injuries, have also questioned the workrelatedness of injuries (Drs. Dirkers and Moore). During his interview, Dr. Dirkers admitted his doubt about the work-relatedness of injuries and stated that he believed personal conditions raised questions as to whether the company was responsible for some injuries, even though they occurred at the work site during work activity, involving high risk tasks. According to medical records, Dr. Moore refused to acknowledge that a specific CTS case could occur at the site, which has been disputed by OSHA contracted consultants, and even though the company had previously accepted CTS incidents involving order selectors (200 logs). Some mgrs indicated that they believed up to 50% of the injuries were not actually work related. The analyst stated that he believed the order selector position was not hazardous and suggested there were not ergonomic hazards associated with the job if the ee did the job correctly. When he was asked, as were all mgrs interviewed, if he believed that lifting a 50 lb. box to eye level was safe, he stated he believed it could be done safely (but it was pointed out that boxes exceeding 50 lbs. and lifted to a height greater than eye level also occurred). When it was further pointed out that lifting up to approximately 1700 times a day, at a total weight of >37,000 lbs. per day was done day after day, month after month, and that the injury rates indicated a greatly elevated statistic mgrs continued to state the job was safe.

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26. Classification:				
Serious	Knowledge	S or O	Repeat?	Willful?
y	y	s	n	n

First Repeat	Second Repeat	Repeat Penalty

Event Date	Event Code	Action Code	Citation Type	Penalty	Abate Date	Final Order
05/22/03	Z Add transaction	A Add	S Serious	6300.00	08/20/04	

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UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
1120 20th STREET, N.W., SUITE 980  
WASHINGTON, DC 20036-3457

Phone: (202) 606-5400  
Fax: (202) 606-5050

Secretary of Labor,  
Complainant,  
v.  
Supervalu Holdings, Inc.,  
Respondent.

Region 7  
OSHRC Docket No. 03-1178  
OSHA Inspection No. 305630808

Notice Of Docketing  
Of Administrative Law Judge's Decision

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on 3/8/2005. The decision of the Judge will become a final order of the Commission on 4/7/2005 unless a Commission member directs review of the decision on or before that date.

Any party desiring review of the judge's decision by the Commission must file a petition for discretionary review. Any such petition should be received by the Executive Secretary on or before 3/28/2005 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91. All further pleadings or communications regarding this case shall be addressed to the Executive Secretary with a copy to the DOL Solicitor at the address below.

Executive Secretary  
Occupational Safety and Health Review Commission  
1120 20th St., N.W., Suite 980  
Washington, D.C. 20036-3457

Daniel J. Mick, Counsel for Regional Trial Litigation  
Office of the Solicitor, U.S. DOL  
Room S4004  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

If Directed for Review by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. If you have questions, please call me at (202) 606-5400.

Date: March 8, 2005

*Ray H. Darling, Jr.*  
Ray H. Darling, Jr.  
Executive Secretary

This notice has been sent to:

For the Secretary of Labor:  
ATTN: Kathleen Butterfield & Aaron  
Rittmaster, Esqs.  
Office of the Solicitor, U.S. DOL  
1210 City Center Square  
1100 Main Street  
Kansas City, MO 64105

For the Employer:  
Rodney L. Smith & Patrick Miller, Esqs.  
Sherman & Howard, LLC  
633 Seventeenth Street, Suite 3000  
Denver, CO 63042

For the employees:  
Justin P. Keating, Esquire  
Lamont Byrd, Dir. Safety & Health Dept.  
International Brotherhood of Teamsters  
25 Louisiana Avenue, N. W.  
Washington, DC 20001

For the employees:  
Pat Raftery, Business Rep.  
Teamsters Local Union No. 688  
300 South Grand  
St. Louis, MO 63103

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United States of America  
**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**  
1924 Building - Room 2R90, 100 Alabama Street, S.W.  
Atlanta, Georgia 30303-3104

Phone: (404) 562-1640

Fax: (404) 562-1650

**NOTICE OF DECISION**

Secretary v. SUPERVALU Holdings, Inc. & Intl. Brotherhood of Teamsters, Local No. 688

OSHRC Docket No. 03-1178

1. Please take notice that the accompanying order approving the settlement agreement pursuant to 29 C.F.R. § 2200.100, the settlement agreement itself, and all other papers comprising the record were mailed on this date to the Review Commission's Executive Secretary, and shall constitute the report of this Administrative Law Judge for the purpose of 29 U.S.C. § 661(j).
2. Any request for relief from clerical mistakes or errors arising from oversight or inadvertence must be in the form of a written motion (See 29 C.F.R. § 2200.40). The motion should be directed to the Review Commission as follows:

Executive Secretary  
Occupational Safety & Health Review Commission  
One Lafayette Centre  
1120 20th Street, NW - 9th Floor  
Washington, D. C. 20036-3457

3. The Executive Secretary shall make an appropriate referral of any request for relief.
4. The order shall become final thirty (30) days from the date of its docketing by the Executive Secretary, unless review thereof is directed by a Commission Member within that time. 29 U.S.C. § 661(j).

/s/ KEN S. WELSCH  
KEN S. WELSCH  
Judge

Date: March 1, 2005

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UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Secretary of Labor,

Complainant,

v.

SUPERVALU Holdings, Inc.,

Respondent,

and

International Brotherhood of Teamsters,  
Local No. 688,

Authorized Employee Representative.

OSHRC Docket No. 03-1178

**Order Approving Settlement**

On February 28, 2005, an executed stipulation and settlement was received from the parties in the above-captioned case which resolves the issues pending before the Commission. Respondent withdraws its notice of contest and represents that it has conformed with the applicable posting and service requirements as fixed by the rules of the Commission.

Therefore, it is ORDERED:

1. That the terms of settlement are approved and incorporated herein as part of this order.
2. That the citation and proposed penalties, as amended, are modified and affirmed in accordance with the terms of the settlement and a penalty of \$6,000.00 is assessed.

SO ORDERED.

Date: March 1, 2005

**/S/ KEN S. WELSCH**

**Judge Ken S. Welsch**  
1924 Building, Suite 2R90  
100 Alabama Street, S.W.  
Atlanta, Georgia 30303-3104  
Phone (404) 562-1640 Fax (404) 562-1650

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This order has been sent to:

**For the Secretary of Labor:**

Michael A. Stabler, Esquire  
Regional Solicitor  
U. S. Department of Labor  
1210 City Center Square  
1100 Main Street  
Kansas City, MO 64105  
ATTN: Kathleen Butterfield, Esquire  
Aaron Rittmaster, Esquire

**For the Employer:**

Rodney L. Smith, Esquire  
Patrick J. Miller, Esquire  
Sherman & Howard, LLC  
633 - 17th Street, Suite 3000  
Denver, CO 80202

**For the Employees:**

Justin P. Keating, Esquire  
Mr. LaMont Byrd, Director  
Safety and Health Department  
International Brotherhood of Teamsters  
25 Louisiana Avenue, N. W.  
Washington, DC 20001

Mr. Pat Rafferty, Business Agent  
Teamsters Local Union No. 688, IBT  
300 South Grand  
St. Louis, MO 63103

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(816) 426-6441  
FAX 426-2500

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF THE SOLICITOR  
1210 CITY CENTER SQUARE  
1100 MAIN STREET  
KANSAS CITY, MISSOURI 64105-5148



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Do not disclose without consulting the Office of the Solicitor.


March 2, 2005

5CAB5000KB

MEMORANDUM FOR: WILLIAM MCDONALD  
Area Director/OSHA/St. Louis

ATTN: JOHN SCHAUSTER  
Industrial Hygienist/OSHA/St. Louis

FROM: MICHAEL A. STABLER  
Regional Solicitor

By   
Kathleen Butterfield  
Senior Trial Attorney

SUBJECT: Secretary of Labor v. Supervalu Holdings,  
Inc.  
OSHRC Docket No. 03-1178  
OSHA Inspection No. 305630808  
SOL No. 03-27740

Enclosed is a copy of the fully executed Stipulation and Settlement Agreement for the above-referenced matter. It is our understanding that the penalty check will be remitted directly to your office. When the penalty check arrives, please mail a photocopy of the check to our office.

Thank you for your assistance.

Enclosure: Stipulation and Settlement Agreement

*done*  
*H*  
*3/4/05*

*160*



UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

-----  
SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT OF LABOR,  
Complainant,

OSHRC DOCKET  
NO. 03-1178

v.

SUPERVALU HOLDINGS, INC.,  
Respondent;

-----  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
and TEAMSTERS LOCAL UNION NO. 688  
Authorized Employee  
Representative.  
-----

STIPULATION AND SETTLEMENT AGREEMENT

I.

Elaine Chao, Secretary of Labor, United States Department of Labor ("Complainant"), SUPERVALU Holdings, Inc., and its successors, ("Respondent") and the International Brotherhood of Teamsters and Teamsters Local Union No. 688 ("Authorized Employee Representative") have reached a complete settlement of the above-captioned matter presently pending before the Occupational Safety and Health Review Commission ("Commission"). Accordingly, the parties stipulate and agree as follows:

A. The Commission has jurisdiction of this matter pursuant to Section 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, et seq., (hereinafter "the Act").

B. Respondent is a corporation with a place of business in Hazelwood, Missouri. It has been, at all times material to these proceedings, engaged in the business of wholesale food

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distribution. Respondent is an employer engaged in a business affecting commerce as defined by §§ 3(3) and 3(5) of the Act, has employees as defined by § 3(6) of the Act, and is subject to the requirements of the Act.

C. As a result of an inspection of Respondent's Hazelwood, Missouri, food distribution warehouse, a Citation alleging violations of the Act was issued to Respondent on May 22, 2003.

D. Respondent filed a timely notice of contest to the Citation items and notification of penalty that was duly transmitted to and docketed by the Commission. The authorized representative of the employees at the Hazelwood, Missouri, facility, the International Brotherhood of Teamsters ("IBT"), and Teamsters Local Union No. 688, IBT, elected party status.

E. Complainant hereby amends Citation No. 1 and the Notification of Penalty as follows:

Item 1 - Penalty reduced to \$1,000. The description of Citation 1, Item 1 is amended to delete the existing language and to provide as follows:

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: the employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical injury to order selectors in the Perishable and Grocery warehouses at Respondent's Hazelwood, Missouri distribution center, in that order selectors performed certain lifting tasks with stressors that had caused, were causing, or were likely to cause musculoskeletal disorders (MSDs).

Citation 1, Item 1 is further amended to include the Ergonomics Agreement and actions taken thereunder as abatement of the Citation.

Item 2 - Penalty reduced to \$5000.00. No other changes.

F. Respondent hereby withdraws its notice of contest to Citation 1, Items 1 and 2, and notification of penalty, as amended herein.

G. Respondent represents that it has abated the conditions noted in Citation 1, Item 2, and agrees that the date of this agreement shall be the final abatement date for said item. Respondent will comply with all applicable abatement verification provisions of 29 CFR § 1903.19, including, but not limited to, all certification, documentation, and posting requirements. Abatement certification shall be accomplished within 10 calendar days after the abatement date by mailing a letter to Bill McDonald, Area Director, St. Louis Area Office of the Occupational Safety and Health Administration, stating that abatement has been completed, the date and method of abatement, and that affected employees and their representatives have been informed of the abatement. Any required abatement documentation shall be submitted along with the abatement certification.

H. Respondent has tendered payment of the total penalty of \$6,000 to Complainant's representative.

## II.

### Ergonomics Agreement

A. Recitals: Respondent is committed to its ergonomics program, the intent and goal of which is to provide a safe and healthful workplace and to reduce the number and/or severity of work-related musculoskeletal disorders (MSDs) through, among other things, worksite analysis; medical management; feasible and effective engineering, administrative and work practice controls; and appropriate training of management and employees.

Since the issuance of the Citation on May 21, 2003,

Respondent has taken the following steps, in addition to other things, to improve its existing ergonomics program:

a. re-instituted an Ergonomics Committee comprised of Perishable and Grocery warehouse employees and management. The Committee received formal ergonomics training. Among other actions, the Committee has made numerous recommendations, accepted by Respondent, for racking and product location changes in the warehouses, including by way of example: raising the bar height on slots to minimize bending when entering the slot, moving fast-moving seasonal products from a two-pick slot to a one-pick slot to minimize reaching, adding additional floor slots (previously used as storage) to eliminate congestion in the aisles and to provide for easier selection. In addition to recommendations made by the Ergonomics Committee, employees are encouraged to bring slotting recommendations to management;

b. instituted a behavior-based safety management program ("Critical Activities Management" or "CAM") to address safe lifting practices by order selectors. CAM is a systematic, data-oriented approach to managing safe behaviors. CAM relies on positive reinforcement and constructive feedback by managers to change behaviors that may result in injury and to overall enhance the safety culture at the facility;

c. implemented a Vocollect order selection system, including revision of and training on Respondent's preferred methods for good lifting practices. Vocollect is a computerized method of order selecting which eliminates the need for an order selector to carry and place labels on product, thereby allowing order selectors to freely use both hands to lift and place product;

d. re-instituted random job observations of preferred lifting methods by order selectors. Random observations are utilized in addition to other forms of work

observations, and are designed to provide order selectors with constructive feedback on five safe lifting techniques: use of a case hook, bending the knees to aid in lifting, keeping the product close to the body when lifting or lowering product and avoiding reaching across the pallet when placing product.

B. Abatement. In an effort to further improve its existing ergonomics program, Respondent represents that it will abate Citation 1, Item 1 through the implementation of this Ergonomics Agreement.

C. Covered Jobs and Facility

This Ergonomics Agreement only covers Respondent's Order Selector jobs at its Perishable and Grocery Warehouses in Hazelwood, Missouri (hereinafter referred to as "the facility").

D. Hiring of Consultant - 3-14-05; Rev'd 3-18-05 (\$55,240.05)

No later than 15 days after execution of this Agreement, Respondent agrees to select one or more outside consultant(s) (hereinafter collectively referred to as the "Consultant") who shall be qualified by education, training and experience in the field of ergonomics and engineering related to ergonomics; and has experience in successfully implementing engineering and other controls to address ergonomic risk factors in grocery warehousing and/or with respect to manual material lifting tasks similar to those performed by Respondent's order selectors. Within seven (7) days after selecting a consultant, Respondent shall provide Complainant and the Authorized Employee Representative with the name and curriculum vitae of the Consultant. Complainant shall thereafter have 14 days to communicate any comments concerning the selection including, if necessary, an indication that the Consultant is not qualified for the purpose of this Agreement. Complainant may not unreasonably withhold approval of Respondent's selection.

Respondent will formally retain the consultant as soon as possible after receiving Complainant's input.

E. Consultant's Duties

The Consultant will do a worksite analysis of the order selector jobs at the facility and evaluate the methods in place at the facility for addressing ergonomic risk factors, including methods of worksite analysis, engineering controls, work practices, administrative controls, medical management, training and education, and employee involvement in addressing ergonomic factors. The Consultant will also evaluate the abatement methods set forth by OSHA in Citation 1, Item 1, as well as any other feasible and effective engineering, administrative and work practice controls which the Consultant deems worthy of consideration. In conducting this analysis, the Consultant shall confer with employees and the Authorized Employee Representative.

No later than 120 days after the date the Consultant is formally retained, the Consultant shall prepare a written report suggesting feasible and effective means of reducing the number and/or severity of work-related MSD's associated with the order selectors' lifting task. In addition, the Consultant shall provide any other information deemed useful concerning Respondent's existing or future ergonomics program. The report shall also comment on the general categories of Abatement Methods suggested in Citation 1, Item 1, by stating whether the methods are already in place, feasible, effective or applicable. If the Consultant determines that Abatement Methods suggested in Citation 1, Item 1 are not feasible or effective, he or she shall state the reasons. This report shall be provided to Complainant and the Authorized Employee Representative no later than seven days after it is received by Respondent.

~7-19-05  
RWD  
8-18-05

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F. Implementation of Consultant's Suggestions. Within 45 days after receipt of the Consultant's Report, Respondent shall submit a letter to Complainant and the Authorized Employee Representative identifying feasible and effective measures identified by the Consultant which it intends to implement and a target date to implement such measures. In prioritizing the implementation of such measures, Respondent will give due consideration to the precedence of feasible and effective engineering controls over other methods. It shall be the goal of these measures to eliminate or substantially reduce the number and/or severity of work-related MSD's among warehouse order selectors at the facility. Thereafter, Complainant shall have 30 days to respond to Respondent concerning the adequacy of the proposed measures. (9-28-05)  
10-3-05

G. Respondent shall discuss and seek input regarding the measures it intends to implement with the Ergonomics Committee at the facility. Implementation of the measures identified by Respondent shall be completed no later than 90 days after receipt of Complainant's concerns as stated in paragraph II. F above. -11-1-05

H. Respondent may file a petition for modification of the abatement date pursuant to Section 10(c) of the Act if it is unable to meet any deadline or time requirement in this Ergonomics Agreement.

I. Progress Reports and Monitoring. Respondent will report its progress in implementing the identified measures by sending letters 90 days after receipt of Complainant's response as set forth in paragraph II. F above, and every six (6) months thereafter during the term of this Ergonomics Agreement, to Bill McDonald, Area Director, St. Louis OSHA Area Office, describing all actions taken to date. In addition, Respondent shall submit its completed OSHA Form 300 at the facility for the calendar ~2-1-06  
Circled  
~2-1-06  
~2-1-07

2-15-06  
2-15-07  
2-15-08  
years 2005, 2006 and 2007 to the Area Director no later than February 15 of the following year. Complainant shall have the right to conduct monitoring inspections during the term of this Ergonomics Agreement to determine the abatement measures taken and/or progress under this Agreement.

J. Dispute Resolution. In the event Complainant or Respondent objects to actions taken by the other party concerning this Ergonomics Agreement, the parties will timely confer to attempt to resolve any issues. In resolving any such disputes, the parties may agree, in writing, to any dispute resolution process or procedures they see fit. In the event the parties cannot timely resolve any disagreements within 60 days of initiating dispute resolution under this paragraph, Complainant has the right to enforce this Agreement pursuant to Section IV of this Agreement.

If the Authorized Employee Representative has any concerns or questions regarding the parties' compliance with this Agreement, it may raise those concerns in writing and provide them to Respondent and to the OSHA Area Director for review and response.

K. Confidentiality of Reports. Reports described in this Ergonomics Agreement may contain confidential information, and it is understood that such reports shall be handled pursuant to Section 15 of the Act and 29 CFR § 1903.9. Respondent shall have the obligation to identify the document, information or portion thereof, that contains proprietary or business confidential material. No document or information that is proprietary or confidential shall be made available to the public by Complainant or the Authorized Employee Representative, directly or indirectly, in any form whether by summary, analysis or verbatim except as required by law. Nothing in this Agreement



shall supersede or modify the terms of the Review Commission's Protective Orders entered in this case.

L. Non-discouragement. No employee shall be discouraged from reporting work-related medical conditions, including those which may involve a musculoskeletal disorder. Respondent will continue to promote the early reporting of medical conditions which may be related to a musculoskeletal disorder.

M. Term of Agreement. Except as specifically provided by this Stipulation and Settlement Agreement including without limitation Sections III and IV, the term of this Ergonomics Agreement shall be 22 months from the date of this Agreement.

### III.

#### Non-Admissions Clause

Respondent's agreement to take any of the actions set forth herein, its payment of any penalty, its execution of this Stipulation and Settlement Agreement, and any pleadings filed by the parties in this action shall not be deemed to be an admission by Respondent of the allegations contained in the Citation, of any fault or liability, or that Respondent caused or contributed to the injury, illness, musculoskeletal disorder or death of any person or damage to any property in any claim or proceeding which now exists or may arise by any person, agency, or entity; provided however, that nothing in this Agreement shall preclude or affect the entry of the Final Order in this matter as provided by Section IV. This Agreement is made solely for the purpose of settling this matter economically and amicably without further litigation and constitutes a compromised claim pursuant to Federal Rules of Evidence 408 and Commission Rule 2200.11(d)(3). All evidence of conduct or statements made in compromise negotiations is confidential and inadmissible.

The Secretary expressly agrees that as to Citation 1, Item 1 (not Citation 1, Item 2), Citation 1, Item 1, this Agreement (including the above Ergonomics Agreement) and the final order approving this Agreement in this matter shall not be used or utilized in any manner or for any purpose whatsoever, including but not limited to use as the basis for a repeat violation under the Act, or be admissible in any subsequent proceeding, that can, shall or may be initiated under the Occupational Safety and Health Act of 1970, against Respondent, SUPERVALU, Inc., any entity legally related to Respondent or SUPERVALU, Inc., or any entity that may in the future be acquired by SUPERVALU, Inc. or Respondent, except proceedings to resolve any disputes under paragraph II J. of this Agreement, proceedings to enforce this Agreement, proceedings to issue a notification of failure to abate in the event Respondent is deemed by Complainant not to be implementing this Agreement in good faith, or proceedings against Respondent's facility in Hazelwood, Missouri.

#### IV.

#### Final Order

Complainant and Respondent agree that based on the foregoing, that an Order may be entered of record showing that Respondent has withdrawn its Notice of Contest and entering the Citation and Notification of Penalty, as amended herein, and all terms and conditions of this Stipulation and Settlement Agreement, as a Final Order of the Commission. Complainant and Respondent further agree that the Final Order of the Commission shall be enforceable in the United States Court of Appeals pursuant to §11(b) of the Act, or under any other applicable provision of the Act.

V.

Fees and Costs

Each party hereby agrees to bear her or its own fees and other expenses incurred by such party in connection with any stage of this proceeding, including but not limited to, attorneys' fees, costs, expert witness fees and costs and other expenses. The parties agree that Respondent is ineligible under the Equal Access to Justice Act, 5 U.S.C. § 504, as amended.

VI.


Service and Posting


A copy of this Stipulation and Settlement Agreement will be posted at Respondent's workplace on February 14, 2005, at 7100 Hazelwood Ave., Hazelwood, MO where it may be viewed by its employees; that affected employees are represented by International Brotherhood of Teamsters, Local 688 and that a copy of this Stipulation and Settlement Agreement has been served on Pat Rafferty, Business Agent, by prepaid, first class mail this 7<sup>th</sup> day of February, 2005.

Dated this 24<sup>th</sup> day of February, 2005.

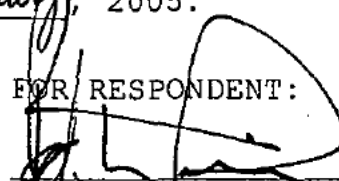
FOR COMPLAINANT:

Howard M. Radzely  
Solicitor of Labor  
Michael A. Stabler  
Regional Solicitor

  
Kathleen Butterfield, Esq.  
U.S. Department of Labor  
1210 City Centre Square  
1100 Main Street  
Kansas City, MO 64105

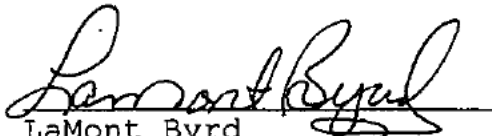
  
Kenneth Hellman  
Senior Trial Attorney  
Office of the Solicitor  
200 Constitution Ave.  
Room S-4004  
Washington, D.C. 20210

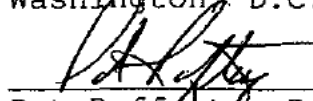
FOR RESPONDENT:

  
Rodney L. Smith  
Sherman & Howard, LLC  
633 17<sup>th</sup> Street, Ste. 3000  
Denver, CO 80202

Kathleen A. Hughes  
Director of Labor and  
and Employment Law  
SUPERVALU, Inc.  
11840 Valley View Road  
Eden Prairie, MN 55344

FOR THE AUTHORIZED EMPLOYEE  
REPRESENTATIVE:

  
LaMont Byrd  
Director, Safety and Health Department  
International Brotherhood of Teamsters  
25 Louisiana Ave., N.W.  
Washington, D.C. 20001

  
Pat Rafferty, Business Agent  
Teamsters Local Union No. 688, IBT  
300 South Grand  
St. Louis, MO 63103

NOTICE TO EMPLOYEES OR  
EMPLOYEE REPRESENTATIVE

The attached Stipulation and Settlement Agreement has been tendered by the parties hereto and is being submitted to the Occupational Safety and Health Review Commission for entry as a Final Order. If you have any comments on the Stipulation and Settlement Agreement, you may submit them within ten days of service or posting of the Stipulation to:

The Honorable Ken S. Welsch  
Occupational Safety and Health  
Review Commission  
1924 Building, Suite 2R90  
100 Alabama Street, S.W.  
Atlanta, GA 30303

A copy of such comments should also be sent to:

Kathleen Butterfield, Esq.  
U.S. Department of Labor  
1210 City Center Square  
1100 Main Street  
Kansas City, MO 64105

Served this 7<sup>th</sup> day of February, 2005.

Posted this 14<sup>th</sup> day of February, 2005.

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UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

-----  
SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT OF LABOR,  
Complainant,

OSHRC DOCKET  
NO. 03-1178

v.

SUPERVALU HOLDINGS, INC.,  
Respondent;

-----  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
and TEAMSTERS LOCAL UNION NO. 688  
Authorized Employee  
Representative.  
-----

ORDER

The parties have submitted a Stipulation and Settlement Agreement in this matter. The citation, notification of penalties, as amended in the Agreement, and all terms of the Stipulation and Settlement Agreement are hereby incorporated as the Review Commission's Final Order in this matter.

SO ORDERED.

\_\_\_\_\_  
KEN S. WELSCH  
Judge, OSHRC

Dated:

**From:** [Mashayekhi Azita](#)  
**To:** [Barab, Jordan - OSHA](#)  
**Cc:** [Berkowitz, Deborah - OSHA](#)  
**Subject:** Teamster "health care" facilities in N. Carolina and question on public service hospitals  
**Date:** Tuesday, November 25, 2014 11:10:59 AM

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Hi Debbie and Jordan, I hope you are well. I copied Debbie because I wasn't sure if I should or not. ☺

Regarding your request for health care facilities in N. Carolina, I learned that we represent some fixed and mobile blood-drawing Red Cross sites.

The local union rep said that there was a ruling in N. Carolina that Red Cross falls in the pharmaceutical. Not health care, industry.

I don't know if that's one you would be interested in. If you are, please contact the larger local, of about 55 members:

Ernest Wrenn <sup>(b) (6)</sup>  
Collection techs, collection specialists, drivers

- 1) Park Road, Charlotte (headquarters)
- 2) Huntersville, N. Carolina (25 miles N of Charlotte)

On public service hospitals, you are interested to know if we represent any in the 22 State Plan States (plus CT, IL, NJ, NY, VI)?

Our databases don't separate public from private facilities so it would help me find them for you if I had specific states or even cities in those States.

I could then send you a list of the locals and local union reps to contact.

I definitely would like to help with this effort so let me know what the plan is so I understand better.

Thank you!

Azita

**Azita Mashayekhi, MHS**  
**Staff Industrial Hygienist**  
**Safety and Health Department**  
**International Brotherhood of Teamsters**  
**(202) 624-6830 Phone**  
**(202) 624-8740 Fax**

**From:** [Spieler, Emily](#)  
**To:** [moberly@unl.edu](#); [brockjon@outlook.com](#); [Eherts, David](#); [Keating, Gregory](#); [Narine, Marcia](#); [Wengert, Kenneth](#); [Barbour, Ava](#); [Frumin, Eric](#); [Garde, Billie](#); [Lessin, Nancy](#); [ECOR Contact Minnesota](#); [Tucker Harris, Rina](#); [Van Steenburg, Jack](#); [Zuckerman, Jason](#)  
**Cc:** [Slavet, Beth - OSHA](#); [Seeman, Laura - OSHA](#); [Berkowitz, Deborah - OSHA](#); [Smith, Meghan P. - OSHA](#); [Blancato, Philippe - OSHA](#); [Swick, Robert - OSHA](#)  
**Subject:** Whistleblower Protection Advisory Committee - update  
**Date:** Monday, November 11, 2013 11:52:21 AM  
**Attachments:** [Charges to WPAC Working Groups.docx](#)  
[WPAC work group members \(11-20-2013\).docx](#)

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Dear WPAC members,

The three work groups are now up and running, and most of our current work will occur in these groups. I am attaching the charges that David Michaels has given to us for all three work groups, as well as a list of workgroup members, including outside experts from both industry and labor who have been named to participate in the Transportation Work Group deliberations.

Contact information for the work groups:

Work Group:	Chairperson:	Chair's email:	Staff person:	Staff member's email:
Best Practices	Jon Brock	(b) (6)	Meghan Smith	(b) (6)
Section 11(c)	David Eherts	(b) (6)	Phil Blancato	(b) (6)
Transportation	Eric Frumin	(b) (6)	Rob Swick	(b) (6)

The chairs of the work groups will be in touch very soon to set up times for conference calls to continue to develop both work plans and the substantive ideas for the groups. We anticipate that there will be at least two telephonic meetings of each work group in the next couple of months. These will be publicly noticed, and therefore we need some lead time to set them up. We also anticipate that we will schedule a set of meetings in D.C. in March, thereby allowing the work groups to make real progress before we meet. At that time, both the work groups and the full committee will be able to meet in person and really move our work forward; you should be contacted regarding scheduling of the March meeting in the next few weeks. In the meantime, please think about whether there are external people whom you would like to invite to speak to (or with) your work group(s) to bring in ideas, observations or expertise that we may lack. We will also be setting up folders on the DOL extranet for the work groups to post information (reports, data, etc.).

Please let me know if you have any questions or concerns that affect the WPAC generally; you should bring your ideas for the work groups to the chair of the subgroup.

Thanks.

Emily

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 Emily A. Spieler



Chair  
Whistleblower Protection Advisory Committee  
Occupational Safety and Health Administration  
U.S. Department of Labor

Edwin W. Hadley Professor of Law  
Northeastern University School of Law  
76 Cargill Hall  
400 Huntington Avenue  
Boston, MA 02118  
Office +617-373-2346  
Mobile + (b) (6)  
Email: (b) (6)

## **WPAC WORK GROUPS (as of November 10, 2013)**

### **Best Practices Working Group:**

Jonathan Brock, Chair  
Billie Garde  
David Eherts  
Gregory Keating  
Nancy Lessin  
Marcia Narine  
Kenneth Wengert  
Emily Spieler (WPAC Chair – ex-officio)

### **Working Group on Whistleblower Issues in the Transportation Industry**

Eric Frumin, Chair  
Marcia Narine  
John Van Steenburg  
Emily Spieler (WPAC Chair – ex-officio)

#### Non-WPAC invited experts (non-voting):

Charles Shewmake, Vice President and General Counsel , BNSF Rail Management  
Constance Valkan, Counsel , Canadian National/ Illinois Central, Rail Management  
Rob DeLucia, VP and Assistant General Counsel Airline for America Air Management  
Michael Manley, Teamsters, Trucking  
Rick Inclima, Director of Safety, Brotherhood of Maintenance of Way Employees Division/IBT  
Ed Watt, Director, Health and Safety, Amalgamated Transit Union of America, AFL-CIO  
Larry Mann, Esq., Alper & Mann, P.C.  
Todd Jadin, Schneider National

### **Working Group on Section 11(c) of OSHA**

David Eherts, Chair  
Ava Barbour  
Christine Dougherty  
Rina Tucker Harris  
Richard Moberly  
Nancy Lessin  
Jason Zuckerman  
Emily Spieler (WPAC Chair, ex-officio)