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Rep. Lynn Woolsey (D-CA) Opening Statement for the Hearing on Workplace Safety

WASHINGTON, D.C. – Below are the prepared remarks of U.S. Rep. Lynn Woolsey (D-CA), the ranking member of the Subcommittee on Workforce Protections of the House Committee on Education and the Workforce for the hearing on “Workplace Safety: Ensuring a Responsible Regulatory Environment.”

Mr. Chairman, thank you for holding this timely hearing. It takes place against the backdrop of an irresponsible appropriations bill that was released as a draft by the Chairman of the Labor-HHS Appropriations Subcommittee.

It contains riders that will:

- handcuff OSHA’s ability to prevent deaths and disabling injuries from roof falls;
- obstruct OSHA’s progress on a rule to require employers to identify and correct hazards in the workplace on an ongoing basis; and
- block an OSHA rule that would ensure employers record cumulative trauma disorders so workers and employers will know if there is a problem.

At the same time, this bill zeroes out OSHA’s Susan Harwood Training Program, which awards grants to nonprofit organizations to train workers who are employed in high hazard industries. The National Roofing Contractors Association, which is testifying before us today, received \$1.5 million over the past five years for training.

Mr. Chairman, I commend you for inviting Assistant Secretary Michaels to testify. We will most certainly want to hear whether he thinks workers’ safety will be advanced by the riders put on the draft appropriations bill.

Despite complaints about burdensome regulations, OSHA has issued only two modest regulations during the Obama Administration. One updated an obsolete cranes and derricks rule; and the other updated a shipyard rule. Complaints about OSHA piling-on rules are simply wrong.

Let me turn now to one of today’s topics: OSHA’s efforts to reduce the number of workers falling to their deaths in residential construction. Between 2003 and 2010, at least 866 workers

were killed from falls while working in residential construction. Thirty five percent of these deaths—some 299 of our fellow citizens--were caused by workers falling off residential roofs.

OSHA has tackled this problem with a series of actions.

First, OSHA issued fall protection rules in 1994 which mandated the use of fall protection equipment.

Second, to accommodate feasibility concerns, OSHA issued “Interim” Guidance in 1995 exempting the use of personal fall protection for residential roofs that were less than 25 feet off the ground and had less steep roofs.

Third, thirteen years later, in 2008, the National Association of Home Builders, unions and other stakeholders recommended that OSHA repeal These Exemptions for residential construction. This past December, OSHA repealed the exemptions with a nine month phase-in period.

Yet OSHA is now accused of hurting employers despite doing exactly what was asked of it.

Let’s rewind the clock for a moment. Three years ago, the National Association of Home Builders (“NAHB”) wrote OSHA a six page letter urging it to withdraw its Interim Guidance, saying that it creates “uncertainty” and “confusion”.

Three years later, this same trade association is demanding that OSHA stop doing precisely what it asked for. Two weeks ago, NAHB reversed its position in a letter to the White House and declared that “uncertainties abound” as a result of this new guidance, and urged OSHA to “postpone implementation.”

Mr. Chairman, I would like to enter these two NAHB letters into the record so it is clear that OSHA has been getting mixed messages.

The National Roofing Contractors Association has also opposed OSHA eliminating this exemption. They claim that mandating personal fall arrest systems on residential roofs creates a greater hazard than using what are called “slide guards.” Slide Guards are basically 2 x 6 toe-boards against which roofers brace themselves.

However, this is not a universal view amongst contractors.

According to a memo from LeBlanc Construction in Arizona, one of its employees was walking down a slightly pitched roof in August 2008 when he stumbled and lurched over the 2 x 6 “slide guard”. Fortunately, he was wearing a properly fitted full body harness, which engaged and his fall was broken before he ever reached the ground. The company’s safety director wrote that this incident would: “likely have resulted in a serious or deadly injury, had he not been using conventional fall protection.”

Mr. Chairman, this real world example points out that it is reasonable to question whether “slide guards” can be used as the sole means to save lives. It is also clear that the costs of conventional personal fall protection are not excessive.

In this bucket, is a conventional fall protection device, which includes a harness, a lanyard, and an anchor. It costs \$99 at Home Depot. Sophisticated systems cost a bit more.

Mr. Chairman, I am sure you would agree that a responsible contractor wouldn’t risk the life of his or her employees by refusing to purchase a simple fall protection device. And I hope you would agree that, if a contractor decides to skimp on basic life saving safety devices, then they shouldn’t be in the roofing business.

Thank you. I look forward to hearing from our witnesses today.

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