

Statement of George Cole
House Education and Labor Committee
June 24, 2008
Washington, D.C.

Good morning Chairman Miller and other distinguished members of this Committee. My name is George Cole, I have been an Ironworker for 42 years and I never thought I would be testifying that OSHA has failed to enforce safety standards for steel erection. I deeply regret that I am here today on behalf of my deceased brother-in-law, Harold "Rusty" Billingsley who plunged 59 feet to his death on the Project City Center in Las Vegas. To further add to our overwhelming grief, OSHA withdrew all citations and fines. I am also here today on behalf of my family and Ironworkers throughout the country. We need your assistance to confront OSHA on their failure to enforce the safety standards for steel erection, and their misuse of Compliance Directives that have effectively removed vital safety provisions for Ironworkers.

The Compliance Directive issued by Federal OSHA violates the safety regulations contained in the OSHA Subpart R – Steel Erection Standard Final Rule. The OSHA standard requires a decked floor every 2 floors or 30 feet whichever is less, and the Compliance Directive eliminated this safety provision for Rusty.

This was never more evident than on October 5, 2007 when Rusty was permitted to fall over 59 feet to his death, because of this Directive. On that day I lost my brother and gained a statistic. The OSHA photos of his crushed and lifeless body will forever overshadow the energetic and fun loving life, of this kind and generous man.

On several occasions, representatives from the Ironworkers International and contractor associations have met with Mr. Edwin Foulke, Assistant Secretary of Labor and his staff in good faith to resolve this issue. OSHA was strongly urged to rescind certain items contained in their Compliance Directive that removed safety provisions and created unsafe working conditions for Ironworkers. Despite repeated warnings to Mr. Foulke from industry stakeholders, members of his own staff, and the former Deputy Assistant Secretary of Labor, Mr. Foulke has refused to rescind certain items contained in the Compliance Directive.

Two weeks ago Mr. Foulke visited Las Vegas and requested to meet with general contractors and subcontractors regarding the recent rash of fatalities in Las Vegas. Why would Mr. Foulke come to Las Vegas to talk about fatalities and workplace safety when he has refused to rescind OSHA Compliance Directives that have been at the center of controversy in Las Vegas? I was informed that Mr. Foulke refused to rescind certain Federal OSHA Compliance Directives but agreed that he would consider “suspending them until further notice”. Family members,

friends and brother Ironworkers are disappointed that Mr. Foulke left Las Vegas without taking any action on the Compliance Directive that contributed to the tragic death of my brother-in-law, Rusty.

I am extremely pleased that Nevada OSHA has formally denounced items contained in the Federal OSHA Compliance Directive. After a thorough review, Nevada OSHA officials concluded that certain OSHA Compliance Directives do not provide “equivalent protection”. State Plan Officials refer to OSHA Compliance Directives as “underground rulemaking” when Federal OSHA intends to “make policy” without going through a formal rulemaking process. This is a disservice to the stakeholders in the steel erection industry who rely on OSHA to provide consistent enforcement and interpretation of safety regulations. Nevada now joins other State OSHA Plan’s who have refused to adopt these Compliance Directives.

The working men and women that build America look to OSHA to enforce the safety regulations for our protection. We are shocked and disappointed that OSHA would issue Compliance Directives that remove safety provisions for the steel erection industry that is considered a “high hazard industry”. Today, these Compliance Directives continue to be a deadly hazard to Ironworkers and a source of confusion, costly jobsite delays, and unnecessary litigation.

On behalf of Rusty, my family, and Ironworkers throughout the country, we seek your assistance to question Mr. Foulke on OSHA's current policy to not enforce the current safety standards for steel erection, and their misguided Compliance Directives that remove vital safety provisions for Ironworkers.

I hope my testimony before you today will prevent future fatalities and help bring closure to our family. We believe that Mr. Foulke is accountable, and OSHA should be issued a willful citation for knowingly and intentionally violating their own standards.

Thank you for not allowing Rusty's death to be in vain.

George Cole, Ironworker