

**ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH
(ACCSH)**

**MINUTES OF 16-17 APRIL 2009 MEETING
U.S. Department of Labor
200 Constitution Avenue
Washington, DC**

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by Mr. Michael J. Thibodeaux at 8:30 a.m. on Thursday, April 16, 2009. Mr. Thibodeaux adjourned the meeting at 4:30 p.m. on the 16th. Mr. Frank L. Migliaccio, Jr., newly appointed committee chair, reconvened the meeting at 8:30 a.m. on Friday, April 17, 2009. Mr. Migliaccio adjourned the meeting at 1:00 p.m. on the 17th. The following members and representatives were present for all or part of the meeting.

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
William R. Ahal	Employer	Vice Pres. of Pre-Construction, Alberici Constructors, Inc.
Jewel Elizabeth Arioto	Public	Elizabeth Arioto Safety and Health Consulting Services
Kevin D. Beauregard	State	Assistant deputy commissioner, Assistant Director, Division of Occupational Safety and Health, NC Department of Labor
Thomas A. Broderick	Public	Executive Director, Construction Safety Council
Susan G. Bilhorn	Employer	Senior Vice President of Operations, Jacobs Technology
Matt Gillen	Federal Representative	Construction Program Coordinator, CDC-NIOSH, Office of the Director
Steven D. Hawkins	State	Assistant Administrator, TN Occupational Safety and Health Administration
Walter Jones	Employee	Associate Director, Occupational Safety & Health, Laborers' Health and Safety Fund
Thomas L. Kavicky	Employee	Safety Director, Asst. to the President, Chicago Regional Council of Carpenters
Frank L. Migliaccio, Jr.	Employee	Executive Director, Safety & Health International Assoc. of Bridge, Structural, Ornamental & Reinforcing Ironworkers
Emmett M. Russell	Employee	Director, Department of Safety and Health, International Union of Operating Engineers
Thomas R. Shanahan	Employer	Assoc. Executive Director, National Roofing Contractors Association
Michael J. Thibodeaux	Employer	Consultant, National Association of Homebuilders
James R. Tomaseski	Employee	Director, Safety & Health, International Brotherhood of Electrical Workers
Daniel D. Zarletti	Employer	Vice President, Safety, Health and Environment, Kenny Construction Company
Noah Connell	Designated Federal Official	Acting Director, Directorate of Construction, DOL OSHA
Richard Fairfax	Director, Directorate of Enforcement Programs	Acting Director, Directorate of Construction, DOL OSHA
Sarah Shortall	ACCSH Counsel	Office of the Solicitor, U.S. Dept. of Labor
Michael M. X. Buchet	Alternate Designated Federal Official	Office of Construction Services, Directorate of Construction, DOL OSHA

Approximately 40 members of the public attended at various times, as did a number of DOL/OSHA representatives, and members of the press. Mr. Shanahan was present only for Friday, April 17, 2009. Mr. Thibodeaux was present only for Thursday, April 16, 2009.

Mr. Thibodeaux welcomed the attendees, asked the members to introduce themselves, discussed the agenda for the meeting, and reviewed the minutes of the 4-5 December 2008 meeting.

Sarah Shortall, ACCSH Counsel, explained that GSA now requires that meeting minutes be certified by the ACCSH Chairman within 90 days of the meeting. This means that members will need to review the minutes and send any changes back to the chair and Mr. Buchet, rather than wait until the next meeting.

Acting Director of the Directorate of Construction

Mr. Richard Fairfax was introduced as the new Acting Director of the Directorate of Construction. Mr. Fairfax discussed the impact of the American Recovery and Reinvestment Act on the construction industry and OSHA's role of ensuring a safe workplace for the workers involved. He said that the bottom line continues to be workers going home safely at the end of the day.

Recently OSHA has been focused on preparing for the increase in construction activity expected to result from the stimulus package. Information and outreach materials are being prepared and local emphasis programs developed to provide guidance and assistance as well as enforcement. OSHA will be working with consulates regarding emigrant/migrant training.

As OSHA works to meet these new needs ACCSH will provide important guidance. Mr. Fairfax indicated that he anticipates that several new work groups might be formed to provide advice and support.

The Directorate of Construction has added a new construction engineer and two experienced persons in the Construction Services Office. In the near future a construction safety education expert will be added to help put together programs and training. This person will also work closely with the OSHA Training Institute and ACCSH.

The re-hearing for the Confined Space Standard was held in July 2008, and the record was closed in October 2008. Comments are now being compiled.

The Cranes and Derricks Standard comment period closed in January 2009, and a hearing was conducted March 17-20. The post-hearing record will close on 18 June 2009. Additionally OSHA has a three phase crane initiative underway. Currently, in phase one OSHA will provide information and outreach to the construction industry; phase two will focus on internal training and education; and phase three will be the launching of the national emphasis program, starting enforcement and doing inspections.

Several guidance documents are in development, including masonry work, skylights, elevators, demolition projects, personal protective equipment, electrical work and underground projects.

A revised OSHA Field Operations Manual is now available. It replaces the old manual which was set aside in 1994. The new manual eliminates a few directives and memorandums and provides a single source of updated information and guidance. It is intended to be a living document, updated every six months to a year. The first update is expected in the fall of 2009.

The new manual does not currently include construction. The first update is expected to add the construction chapter, along with other changes and additions.

Mr. Migliaccio asked what kind of background the prospective training expert would have. Mr. Fairfax responded that the position calls for an education specialist; he anticipates finding a professional trainer proficient at outreach. Mr. Connell commented that people in the construction industry are encouraged to apply.

Mr. Beauregard asked how stimulus sites would be selected for inspections. Mr. Fairfax indicated that web pages would be created listing job sites, and the Dodge reports would be used. Most sites are expected to be road work, at least initially.

A general discussion followed in which having OSHA personnel from different groups give a presentation on what they are doing at ACCSH meetings would be helpful. The chairman discussed workgroups, and asked for suggestions as to redirecting existing groups or adding new workgroups. He expects a tremendous amount of work in the next few years and wants to align ACCSH with the emerging needs. Suggestions included a public web page listing things being worked on, developed, etc. The idea of work groups conducting conference calls between meetings was discussed.

Deputy Assistant Secretary of Labor

Jordan Barab, Deputy Assistant Secretary of Labor for Occupational Safety and Health and Acting Assistant Secretary was appointed on April 13, 2009. In his remarks welcoming the ACCSH members he commented that this is his first week on the job. He thanked Mr. Thibodeaux for running the meeting and his considerable contribution to ACCSH, and said that Mr. Migliaccio has been appointed as the next ACCSH Chairman.

Acting Assistant Secretary Barab said that he has instructed his staff to treat advisory committees as if they are committees of advisors, whose advice and support is valuable.

He anticipates tough economic times ahead, and commented that the past couple of years have been tough times for construction. There were fatalities related to crane collapses, and the fatalities in Las Vegas which drew national attention. There are 20 construction workers killed every week and the situation could get worse as the economy worsens. Workers afraid to lose their jobs may take shortcuts, or hesitate to report safety issues. Companies may be tempted to save on insurance costs by not reporting incidents; machinery that should be repaired or retired may be kept in service.

OSHA has a responsibility to ensure workers are educated and empowered regarding safety. Health and Safety needs to be the first priority.

On 28 April, as part of the celebration of Workers Memorial Day, there will be a ceremony at the National Labor College in Silver Spring MD. There will be a ground breaking for a memorial and OSHA will roll out several new products that will be associated with the stimulus package.

Mr. Fairfax has taken on new responsibilities as Acting Director of the Construction Directorate and is doing a fine job. OSHA will be working to find a permanent director.

The Assistant Secretary briefly discussed progress on the Cranes and Derricks standard and the Confined Spaces standard, both of which will be discussed in other presentations later in the meeting. He commented that there will also be a presentation later in the meeting regarding trench safety.

He said that he is infuriated when people die in trench collapses, that there is no excuse for it, and that with the technology now available there is even less reason for trenching accidents.

Construction Cooperative Program Update

Cathy Oliver of the Directorate of Cooperative and State Programs gave an update on cooperative programs, focusing on construction. She said that there are many years of data showing the success of cooperative programs in reducing fatalities, injuries and illnesses, and cited a better than 50% improvement over BLS averages.

VPP - The VPP is based on trilateral cooperation between labor, management, and government. It is a proven model in which companies can turn their safety and health programs around using the VPP model, and after 18 months to three years they can be recognized for their success.

The VPP model is now used across all services in DOD. There are currently 135 DOD sites and another 300 are in the pipeline.

There has been growth of VPP in the construction industry because the program has been expanded to allow companies with mobile workforces working at a variety of locations and on short term projects to apply for VPP.

OSHA Strategic Partnership Program – This program is now in its 10th year, and the construction industry is heavily using this model. Over half of the sports complexes built in the last decade have been done through the OSHA Strategic Partnership Program. There is also a great partnership with the electricity transmission and distribution industry. Over 70% of the major companies in the industry participate. Through the partnership best practices and training programs have improved worker safety. A partnership with the National Association of Tower Erectors has reduced illnesses and injuries by over 35% for communication tower erection and maintenance. Overall there are 168 active partnerships, over 80% in construction.

Alliance Program – The Alliance program is very important in terms of getting stakeholders together to develop tools and processes that can be shared with the industry. Of the 61 National Alliances 15 are in construction.

As an example of National Alliances in Construction, there is the alliance with the National Association of Homebuilders, which focuses on limited English proficiency, falls, electrical, struck by and caught in/between safety hazards. As an additional part of this alliance The National Association of Homebuilders conducted several seminars called “How To Build A House” for OSHA staff. The seminar included a half day of theory and a half day on site. It focused on safety hazards, trade contractors, and materials and construction methods.

Other products of the Alliance program include a Safety and Health manual and a site specific plan which focuses on prevention and provides checklists. 25 products developed and available on the website. They include an internal traffic control plan brochure for controlling vehicle traffic within the worksite, and a bulletin for preventing rough terrain forklift accidents.

In 2004 a Construction Roundtable was formed. It has four key workgroups, Design for Safety, Fall Protection Workgroup, Strains and Sprains, and a Case Study and Success Story Workgroup. Some of the products produced are a design for safety website and a variety of presentations and materials on design for safety. Tip sheets have been developed for general safety, fall related injuries in the workplace, and presentations and toolbox talks that are very specific, for example on ladder safety.

Challenge Program – The Challenge Program provides a three stage roadmap to a Safety and Health Management System. There are presently 202 participants in the program, half are in the construction industry and 45% are unionized. Participants in the program have seen over a 30% reduction in injuries and illnesses within the first year.

NIOSH/NORA Update

Matt Gillen gave an update on NIOSH/NORA activities. National Academies published a report entitled “Construction Research at NIOSH;” copies were provided to ACCSH members.

On 13 February 2009 NIOSH announced the “Construction Center” Request for Applications (RFA). The RFA invites cooperative agreement research proposals for the next five year period. Applications are due 15 May 2009. Awards will be announced in September 2009.

Applications for the “Safe in Sound” award (construction category) are due by 1 August 2009. This award acknowledges a successful Construction Hearing Loss Prevention Program or Innovation. Information is available at the www.safeinsound.us website.

There are three new Workplace Solutions reports describing exposure controls for silica; Reducing Hazardous Dust In Operator Cabs During Construction; Grinding Concrete; and Rock Drilling.

Other new publications include an Electrical Safety Student Manual; A Performance Evaluation of Two Overhead Power Line Proximity Warning Devices, an Abrasive Blasting Webpage, and pages on the NIOSH website

addressing welding fumes, Home Protection and Hearing Loss and Spanish Versions of previous Silica Workplace Solutions, Fall Protection and Confined Spaces.

The NORA Construction Sector Council met 8 and 9 April 2009. The Council discussed implementing the National Construction Agenda and viewed presentations on three goal-related projects and developed action items for outreach to the Surveillance community, the Research Community and the Construction Practitioner Community.

Federal Advisory Committee Act (FACA) for Advisory Committee Members

Mr. Joe Plick of the Office of the Solicitor of Labor briefed the committee on the FACA. FACA was enacted in 1972 to control growth of committees and to establish rules for operating, cost controls, record keeping, and transparency. Committees are established by directive or statute. The GSA provides oversight to ensure reporting requirements are met and regulations are complied with.

Meetings must be open to the public, and minutes must be kept and certified by the chair of the committee within 90 days of the meeting. Advisory committees are chartered for a two year period and terminate unless the charter is renewed. The FACA requires that each agency sponsoring a federal advisory committee must appoint a Committee Management Officer who oversees the administration of the Act's requirements.

A Designated Federal Official must be assigned to each committee. The designated official is responsible to call, attend, and adjourn committee meetings, approve the agendas, ensure that required records are kept, maintain records for availability to the public; and provide copies of committee reports to the Committee Management Officer for forwarding to the Library of Congress.

Documents prepared for or by the committee must be available as public records. Sub committees must ensure their work is reported to the parent committee so it becomes part of the record.

Unless the renewal of a committee charter is justified under the FACA, the charter automatically expires after a two-year period unless otherwise provided by law. ACCSH is a statutory committee which does not terminate; OSHA is required by law to bring proposed rules to the ACCSH Committee. As a formality the ACCSH charter is renewed every two years.

GSA requires that when an advisory committee makes a substantive recommendation to an agency the recommendation must go to the head of the agency. The recommendation finally goes to the Library of Congress.

Nailgun Work Group Report

The Nailgun Work Group met on 14 April 2009 from 12:30 until 2:00 PM. The Co-chairs were Ms. Elizabeth Arioto and Mr. Thomas Kavicky. There were 15 other participants.

This was the first meeting on nailgun issues. The work group viewed a presentation on Nailgun injuries titled Nailgun Injuries in Residential Construction, given by Hester Lipscomb Associate Professor in the Division of Occupational and Environmental Medicine at Duke University Medical Center. Nailgun injuries account for about 14% of all residential construction injuries. The Contact trip trigger nailgun carries about twice the risk of sequential triggers.

John Kurtz Executive Vice President of the International Staple, Nail and Tool Association (ISANTA) gave a presentation titled Power Fastening Safety. ISANTA recommends training and education in the proper use of nailguns. ISANTA believes mandating a particular trigger mechanism is not the proper approach because to do so fails to recognize the needs of different jobs and applications; fails to recognize the role of productivity in economics, doubtful acceptance, invites enforcement problems, and generates safety problems, and reiterated the way to improve safety is to improve education and training.

The work group made the following recommendations to ACCSH:

- Continue the Power Fastening Tool Workgroup

- Invite Len Walsh of CALOSHA to discuss how CALOSHA is dealing with nailgun safety issues and discuss their new standard at a future work group meeting.
- Reach out to nailgun manufacturers for ideas on how to improve training

Matt Gillen moved ACCSH recommend that the Directorate of Construction examine current nailgun risks and existing OSHA standards to determine what nailgun risks the standards address and what gaps might exist in terms of engineering controls and training. The motion was seconded and passed unanimously

Frank Migliaccio moved that ACCSH approve the Powered Fastening Tools (Nailguns) Work Group report from the April 14, 2009, meeting. The motion was seconded and passed unanimously.

Rollover Protective Structures Workgroup Report

Mr. Emmett Russell reported that the Rollover Protective Structures Workgroup was attended by seven ACCSH members and six others. After introductions the workgroup reviewed NIOSH safety recommendations for skid steer loaders, and discussed and edited a draft of proposed edits to OSHA regulations regarding ROPS on skid steer loaders.

There was a discussion of general safety recommendations for skid steer loaders, which included ROPS, side screens, restraint bars, brakes, inspections and proper maintenance, securing equipment, backup alarms, hazards involved in loading and unloading equipment, using machines on slopes and operator training. The Workgroup agreed that many of the discussion topics related to safety for all material handling equipment and that the workgroup should focus on ROPS for the skid steer loader.

The next steps for the workgroup are:

- Make recommendations to OSHA to develop a Safety and Health Information Bulletin for skid steer loader hazards
- Review industry standards for skid steer loaders
- Complete deliberations and recommendations for ROPS on skid steer loaders
- Complete deliberations and recommendations for ROPS on mini-excavators
- Look at rollover hazards related to farm tractors and different types of industrial/commercial tractors and other equipment used in construction
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The workgroup might look at general safety recommendations for all material handling equipment if charged to do so by ACCSH after Roll over recommendations are completed

Frank Migliaccio moved that ACCSH approve the Rollover Protection Standards (ROPS) Work Group report from the April 14, 2009, meeting. The motion was seconded and passed unanimously.

Trench Protective Systems

Mr. Keith Lamberson, Chairman of the Trench Shoring and Shielding Association gave a presentation on Trench Protective Systems. Mr. Lamberson said that excavation is one of the most dangerous construction activities. Construction workers make up 5% of the workforce but account for over 26% of the worker deaths and injuries. Death from trench collapse is two and a half times as likely as from any other type of construction accident. Digging in the dirt doesn't appear to be as dangerous as other activities; which causes inattention on the part of workers and employers. Fire and Rescue Teams need the manufacturers and the industry to help to save lives.

Mr. Lamberson presented numerous facts and information: OSHA says that any injury from a cave in is not an accident because cave-ins are predictable and preventable; Options available in the OSHA Standard include shields, shoring, benching, sloping and support systems; The challenge is to get that point across in simple language; A cubic foot of dirt weighs on average 100 pounds; a cubic yard averages 2,700 pounds; The average cave-in involves three or four cubic yards of material; Once underway cave-ins occur in milliseconds, there is no time for a spotter to

react and take action; Statistically most cave-ins are in the eight to twelve foot range; Most large contractors are aware of the hazards and take precautions, but the middle and small companies are often absolutely unaware of the hazards; Parallel trenches from previous work add to the hazards; Contractors should use the “One-Call” centers and look for manholes and markings on the surface to identify hazards.

Mr. Lamberson provided further: that It is not usually one single thing that causes an accident, but a combination of two or three things working together; Historically the first protection was to slope everything, then timber supports were used. Later came aluminum hydraulics, and trench shields and boxes are the current technology; Trench box lateral movement must be controlled, and during vertical movement workers cannot be under the suspended load. Workers can remain inside the box as it is being moved horizontally down the length of the ditch if it is deemed safe the competent person on the job.

According to Mr. Lamberson: The fire and rescue services use air struts and are moving to light weight shields which can be moved with no special equipment. These assemble quickly and easily and buy the rescuers more time to develop a comprehensive plan.

Mr. Migliaccio asked for clarification about moving the box horizontally with workers remaining inside. Mr. Lamberson answered that the competent person on site would have look at the situation to determine if it was safe.

Mr. Ahal asked if this is being done for rural and small fire protection districts which may not be able to afford the technology. Mr. Lamberson said that the mid and smaller market is a challenge.

Mr. Hawkins asked about the cost of renting equipment. Mr. Lamberson said trench boxes rent for as little as fifty to seventy dollars per day.

Mr. Buchet asked about ease of use, and Mr. Lamberson indicated that up to six feet deep one or two people are able to move the boxes, and if stacked an excavator will be able to handle movement.

Trenching Work Group Report

Ten ACCSH members and ten others representing the press and various labor organizations were in attendance. The co-chairs, Mr. Emmett Russell and Mr. Dan Zarletti opened the meeting with a presentation by Mr. Lamberson of Trench Shoring and Shielding Association.

Mr. Lamberson indicated that at any given day 75% of the market might be in some form of non-compliance. Small to mid size contractors using mini-excavators and rubber tired backhoes are the major safety problems for the industry. Eighty percent of the market is now using rental trench protection products. Many companies that rent large excavators also rent trench shields.

Some states now mandate a line item in bid packages for trench shoring for state funded work. Free or low cost training is available from protective equipment manufacturers, but it remains a problem to get contractors to attend the training. Fatalities have been reduced as a result of industry education and awareness, most fatalities result from short-term exposure. In many cases protection may be on the job site but not in use, or workers may be outside the protected area.

The workgroup discussed methods to impact mid and small contractors, and decided to attempt to assemble video and pictures of trench accidents and fatalities, get copies of public service announcements on trench safety, and develop impact messages and/or slogans.

The workgroup intends to develop a list of target contractors, rental companies, plumbers and plumbing supply houses, and fire and rescue teams and attempt to provide them with safety materials. A “One-Call” system might be developed to provide safety trench information, and as information is accumulated the OSHA website and other methods might be used to distribute the information.

The goal of the workgroup is to further reduce industry fatalities through education and awareness directed to the small and midsized contractors.

Frank Migliaccio moved that ACCSH approve the Trenching Work Group report from the April 15, 2009, meeting. The motion was seconded and passed unanimously.

Silica Work Group Report

The Silica Work Group was attended by 11 ACCSH members and nine others representing OSHA, labor and employers.

The co-chairs led a review of the objectives developed over the recent meetings. There are two areas of focus, creating a matrix that identifies silica exposure activities and work practices that mitigate the risks, and building awareness of silica exposures.

The discussion led to a change of direction on the first objective. It was decided to ask OSHA to initiate a new approach with the work group's support. The new product would be a web based tool that allows users to drill down into the specifics of hazards, exposure data and abatement options.

Other topics discussed were educating designers and manufacturers to reduce or eliminate the need for jobsite cutting of cement and other silica-based products; raising the profile of exposures at the source because of potential environmental exposures; try to expand participation of concrete related associations and equipment manufacturers; and have CPRW provide a presentation at the next work group meeting.

The work group affirmed the need to continue to meet and work to help with the acceptance and compliance with the silica standard.

- Create a web based tool that identifies silica exposure activities and techniques to reduce or eliminate them.
- Continue to be a conduit for industry to bring forth information on exposures and remedies.
- Assist OSHA with stimulus activities.

The work group requests that ACCSH formally request OSHA to work with the work group to develop a web-based guidance matrix regarding protection from silica in construction. The tool would supplement and if appropriate be linked to the OSHA silica standard; The workgroup asked ACCSH to also request that OSHA provide a detailed update on the status of the silica standard; that the work group be allowed to review the OSHA guidance "Controlling Silica Exposures In Construction" before it is made public; and that the work group review the proposed silica standard since the draft was issued about five years ago.

Tom Shanahan asked to resign as co-chair of the work group to be able to become involved in other work group activities more in his area of expertise. Mr. Matt Gillen was nominated as his replacement and agreed to accept.

Tom Kavicky moved that ACCSH approve the Silica Work Group report from the April 14, 2009, meeting. The motion was seconded and passed unanimously.

Walter Jones moved ACCSH recommend that OSHA give a detailed update on the status of the Silica rulemaking to ACCSH and the Silica Work Group. The motion was seconded and passed unanimously.

Walter Jones moved ACCSH recommend that OSHA have the Silica Work Group review the Silica proposed rule that OSHA is considering to publish and have the Work Group provide comments at the next ACCSH meeting. The motion was seconded and passed unanimously.

Walter Jones moved ACCSH recommend that OSHA allow the Silica Work Group to review the silica in construction guidance document and provide comments at the next ACCSH meeting. The motion was passed. DOC Acting Director said the guidance document was still undergoing internal review and he could not provide it to ACCSH or the Silica Work Group. Based on that, Mr. Jones withdrew his motion.

Regulatory Compliance Workgroup Report

The Regulatory Compliance workgroup meeting was attended by nine ACCSH members and 21 other participants. Frank Migliaccio and Susan Bilhorn co-chaired the meeting. After introductions and reviewing the minutes of the last meeting the group discussed how to focus inspection resources on poor performing contractors and the greatest hazards. The workgroup was reminded of a CPWR report from about five years ago which included recommendations for targeting inspections. A copy of the report (“Making OSHA Inspectors More Effective: Alternatives for Improved Inspection Targeting in the Construction Industry,” Center for the Protection of Worker Rights, 2004 by David Weil) was entered into the record. Since Mr. Migliaccio becomes the ACCSH chair on April 17, 2009 and vacates his Regulatory Compliance Work Group co-chair position, the committee discussed his replacement. ACCSH approved Mr. Kevin Beauregard to replace Mr. Migliaccio and to serve with Ms. Susan Bilhorn as work group co-chair.

The workgroup agreed on a restatement of its charge: To advise OSHA on methods and means to target construction enforcement and outreach efforts to increase effectiveness and efficiency in the use of OSHA resources.

The workgroup would like to convene a conference call, to include Richard Fairfax, to identify focus areas.

The Workgroup requested that ACCSH make the following recommendations to ACCSH

- That ACCSH request an update on the OSHA Information System objectives and progress at the next workgroup meeting
- Request an update from the Acting Director of Construction Safety regarding enforcement and outreach activities.
- Request OSHA provide information on best practices for targeted inspection from Federal and State programs before the next meeting.
- That a conference call to include the workgroup members, attendees at the last meeting, and mr. Richard Fairfax be scheduled. The conference call will focus on areas relative to the economic stimulus package.

Susan Bilhorn moved ACCSH recommend that Acting DOC Director Richard Fairfax participate in a conference call with the Regulatory Compliance Work Group to discuss OSHA’s stimulus efforts. The motion was seconded and passed unanimously.

Susan Bilhorn moved that ACCSH request OSHA to have Robert Pitulej provide an update on the OSHA Information System (formerly the Integrated Management Information System) objectives and progress at the next Regulatory Compliance Work Group meeting. The motion was seconded and passed unanimously.

Susan Bilhorn moved that ACCSH request that OSHA provide information on best practices for targeted inspection from Federal and State programs before the next ACCSH meeting. The motion was seconded and passed unanimously.

Frank Migliaccio moved that ACCSH approve the Regulatory Compliance Work Group report from the April 15, 2009, meeting. The motion was seconded and passed unanimously.

Women in Construction Workgroup report

Seven ACCSH members and seven others representing OSHA, other federal agencies and associations attended the workgroup meeting. The minutes of the 2 December 2008 meeting were reviewed, and a discussion followed regarding lack of clean sanitation facilities and too few or no wash stations at jobsites; poor fitting PPE, and workplace sexual harassment that can lead to safety and health issues.

Rosemary Sokas discussed the 1999 study; “Women in the construction Workplace: Providing Equitable Safety and Health Protection”.

She pointed out that not much has changed since the study was conducted. Female construction workers feel unsupported when sexually explicit materials are allowed on the worksite. Few women hold supervisory positions in construction.

Other discussion points were that since so little has changed since 1999 there is no need to conduct a new study; Compliance Officer training should include identification of diversity related issues; Training should be job specific rather than segregated by gender; getting employers to purchase appropriate PPE continues to be an issue, and supervisory personnel, instructors and representatives should be trained to ensure the safety, health and equitable treatment of female workers.

The workgroup requested ACCSH address questions to OSHA regarding differences in the language in the general industry PPE standard and the Construction PPE Standard regarding properly fitting PPE, and what action or follow up there has been to the recommendations of the ACCSH June 1999 recommendations regarding Women in the construction Workplace: Providing Equitable Safety and Health Protection.

The Workgroup made the following recommendations to ACCSH;

- Compile a list of vendors and suppliers for women's PPE and ergonomically designed tools.
- Develop visual materials that incorporate images of women in construction in order to promote the concept of a diverse workplace.
- Investigate changing the language regarding PPE found in the construction standard to match the General Industry Standard language.
- Develop quick cards to raise awareness of hazards associated with ill-fitting PPE.

Frank Migliaccio moved that ACCSH approve the Diversity/Women in Construction Work Group report from the April 14, 2009, meeting. The motion was seconded and passed unanimously.

Elizabeth Arioto moved ACCSH recommend that OSHA create new construction safety and health materials that includes images of women working in the construction industry. The motion was seconded and passed unanimously.

Elizabeth Arioto moved ACCSH recommend that OSHA change the language of construction personal protective equipment (PPE) standards to incorporate the language of the general industry PPE standards that employers select PPE that properly fits each affected employee. The motion was seconded. Walter Jones moved to amend the motion to add specifically reference "29 CFR 1910.132" and place of "the general industry PPE standards." The motion to amend was seconded and passed unanimously. The main motion as amended also passed unanimously.

Elizabeth Arioto moved ACCSH recommend that OSHA develop quick cards to raise employer and employee awareness on hazards associated with ill-fitting PPE. The motion was seconded and passed unanimously.

Residential Fall Protection Workgroup Report

Nine ACCSH members and 13 others representing the press, government agencies, employers and employees attended the workgroup meeting. After introductions the minutes of the 2 December 2008 meeting were reviewed. The workgroup then viewed a presentation by the committee tasked with developing a Fall Protection Hazard Assessment and Guidance document for specific tasks on fall protection and fall protection plans in the event that STD-3.01A is rescinded by OSHA. A checklist guideline was developed for use by employers to perform hazard assessment. The workgroup feels that the terms "infeasible" and "greater hazard" need to be defined.

The workgroup has no recommendations for ACCSH. A point of discussion was whether OSHA will consider issuing guidelines on hazard assessment if STD-3.01A is rescinded.

James Tomaseski moved that ACCSH approve the Residential Fall Protection Work Group report from the April 14, 2009, meeting. The motion was seconded and passed unanimously.

Mr. Kavicky inquired whether there has been any movement on the recommendation to rescind STD-3.01A. Mr. Fairfax replied that Acting Assistant Secretary Jordan Barab has been briefed; the issue has been delayed by the leadership transition.

Multi-lingual workgroup report

Mr. Tom Broderick reported that attendance was the best since he has been co-chair of the workgroup, with 12 people attending. He thanked Danezza Quintero for attending and for supporting the multi-lingual workgroup.

The workgroup hopes OSHA can find ways to reach construction workers who speak other languages or English as a second language.

OSHA's Hispanic task force continues to meet. A recent point of discussion is how OSHA Area Offices are coping with non English speakers working in an English speaking management situation.

Mr. Broderick discussed the National Conference on Multilingual Work Places, which was held in Orlando Florida. The meeting was well attended but was apparently a one shot deal. Mr. Broderick discussed having a series of similar meetings focusing on construction. He discussed ways to do these inexpensively using volunteers for training sessions and manufacturers demonstrations, etc. The workgroup will be developing this idea and turning it into a proposal.

Mr. Broderick discussed the Susan Harwood Training Grants program, and how a number of grants have supported languages other than English. Under this program training materials are developed, tested, and then utilized to train workers. Once the grant is over the training product is available at the OSHA Training Institute. The working group suggests looking at what is available, and possibly breathing some life into these programs. Mr. Broderick indicated that some may not be in the public domain, but negotiations might be possible. The work group will work on this idea before the next ACCSH meeting.

Mr. Zarletti commented that the Spanish language is more common, but a number of others, for example, Polish, are present in construction. He discussed the situation in which workers are given training in their own language but then enter a job site where English is used.

Frank Migliaccio moved that ACCSH approve the Multilingual Work Group report from the April 15, 2009, meeting. The motion was seconded and passed unanimously.

Education and Training (OTI) Workgroup

Mr. Frank .Migliaccio reported that 12 ACCSH members and 13 others attended the meeting. The workgroup discussed the proposal to change the ten hour card to have an expiration date, and require a refresher course. The work group's concern is that since the ten hour training is voluntary, why make the refresher course mandatory. Mr. Migliaccio spoke in favor of assigning a training date on the card, and if additional training requirements arose after the training date on the card only training focused on the new material be required.

Mr. Kevin Beauregard, Assistant Deputy Commissioner and Assistant Director of the Division of Occupational Safety and Health, North Carolina Department of Labor and Mr. Steven Hawkins, Assistant Administrator, Tennessee Occupational Safety and Health Administration both commented that while they support the training and believe it is very effective they are more interested in safety being demonstrated on the jobsite than in the card. In some cases despite several trained individuals on the jobsite work is not being done in a safe manner, and in other cases there are no trained personnel, but safety precautions are being observed.

Mr. Hawkins said that when electives are considered there is no way to know, other than the core subjects, what training the card actually represents.

Mr. Migliaccio discussed the OSHA intent regarding prerequisites for the OSHA 0500 course scheduled to go into effect on 1 April. The workgroup was unanimously opposed to this action.

Frank Migliaccio moved ACCSH recommend to OSHA that changes prescribed by the OSHA Training Institute on prerequisites for the 0500 course be put on hold until the new OSHA Assistant Secretary has a chance to review them. The motion was seconded and passed unanimously.

Frank Migliaccio moved ACCSH recommend that OSHA leave the OSHA 10 and OSHA 30 cards, which list the date of training, remain the same. The motion was seconded and passed unanimously

Mr. Tom Kavicky moved that ACCSH approve the OSHA Training Institute (OTI) Work Group report from the April 15, 2009, meeting. The motion was seconded and passed unanimously

Public Comment

Mr. Tom Fogerty of the Construction Safety Council gave a brief presentation covering a project that was developed as part of a Susan Harwood Grant. It is a means to provide training for workers unable to obtain training in their own language. The trainer uses flip charts with pictures or pictograms. The back of the charts have notes for the trainer. The project developed materials in Spanish and Polish. The training addresses 16 topics, with links to indicate to the instructor which topics are related. Student workbooks are also available.

Mr. Fogerty also suggested changes which could be made to signage to include pictures or pictograms that show the dangers present, rather than just words.

The training materials are available free of charge at www.buildsafe.org.

General Discussion

Elizabeth Arioto commented that between 2001 and 2005 there were 40,000 work related and 60,000 non work related nailgun injuries reported to emergency rooms.

Mr. Bill Ahal expressed a concern that in view of the current financial situation and the change in administration there might be a reduction in commitment to safety related issues. A discussion followed regarding actions the committee could take to urge OSHA to continue to aggressively support outreach and cooperative programs.

Mr. Ahal moved that ACCSH, which recognizes the importance of outreach and cooperative programs, recommend to OSHA that if changes need to be made in the level of commitment to outreach and cooperative programs that OSHA bring those changes before ACCSH before implementing them. The motion was seconded and passed unanimously.

Susan Bilhorn moved ACCSH recommend that OSHA make clear to the Administration that coupled with moving forward on stimulus projects that there be expressed expectations that stimulus projects be done safely. The motion was seconded. In order to refine the language of the motion, Susan Bilhorn asked, after considerable discussion, to table consideration of the motion until the next day.

The committee scheduled the next meeting for the last week of July 2009. Monday 27 July is a travel day, workgroup meetings will be held Tuesday 28 and Wednesday 29 July. The ACCSH meeting will be on Thursday July 30 and Friday July 31.

The following meetings will be the week of 21 September 2009, and the week of 7 December 2009.

Mr. Migliaccio indicated that he will give up the OTI workgroup co-chair to become the ACCSH Chairman, and that Mr. Walter Jones will be his replacement.

The committee discussed ways for workgroups to address stimulus issues and the possibility of adding workgroups for Wind Energy and Design for Safety. The discussion included the problems involved with workgroups meeting

by teleconference, the requirements for public access and the requirement that recommendations to the agency come from the ACCSH meeting in public session, not from the workgroup directly.

Stimulus Impact: Construction Funding

Mr. Randy Sherwood, Vice President, McGraw Hill gave a brief overview of McGraw Hill and said that the recovery from the economic recession will have three parts; the stimulus bill, financial rescue and housing rescue. Recovery depends on all three parts coming together.

Inflation is expected to be low; however lending standards will be tight until banks get back to lending. This will impact construction. State and local government finances are also tight, which will negatively impact construction.

Mr. Sherwood indicated that of the 787 billion dollars in the American Recovery and Reinvestment Act, 131 Billion will go to construction projects over the next ten years. Eight Billion will go to high speed rail projects. Unfortunately none of the money will go for school construction.

Of the 131 Billion, 40 will go to states, 90 will be managed through federal agencies, and 27 will go to highway projects. Other transportation projects will receive 8 billion.

Overall construction will see a 9% decline in 2009, but McGraw Hill expects a 10% growth in 2010.

An 8% growth in 2009, and 10% in 2010 is anticipated for environmental public works. Improvements are anticipated in other public works, electrical utilities, public buildings, and health care facilities. Multi-family housing will be down in 2009 but a modest rebound is expected in 2010.

Office construction will continue its downward trend in 2010. Hotel and retail construction will be tough for some time to come.

Information is available at www.construction.com/stimulus and Mr. Sherwood can be contacted at mark.sherwood@mcgraw-hill.com.

In response to questions Mr. Sherwood indicated he anticipates an upward trajectory beyond 2010. He said there is a need to replace 70% of the existing building stock by 2030. There is a pent up market for shelter, roads, and water management. Demographics provide an upward pressure, however access to credit is a negative.

Stimulus Impact: Road Building

Mr. Brad Sant, Vice President of Safety and Education, American Road and Transportation Builders Association, Mr. Scott Schnider Director of Occupational Health and Safety for the Laborers Health and Safety Fund, Mr. Don Elsberg, a Consultant with the National Asphalt Pavers Association, Mr. Howard Schwartz, Director of Environmental Health and Safety at the National Asphalt Pavers Association, and Mr. Emmett Russell Director of Safety and Health for the International Union of Operating Engineers acting as a panel gave a presentation on the stimulus effect on road building.

Brad Sant – Stimulus legislation provided 27 Billion for heavy and highway construction, half had to be obligated within 120 days, the rest within one year. The money goes to state transportation departments and any money not obligated on this timeline goes back to the Federal Highway Administration. There is also 27 Million for OSHA enforcement.

Congress must re-authorize the Surface Transportation Program every six years. Money for this program comes from the federal gas tax which goes into the Highway Trust Fund. The gas taxes are not indexed to inflation. Projected revenues no longer can support highway construction; if the shortfall is not addressed about 400,000 jobs will be lost along with a 50% reduction in highway construction money. It is anticipated that legislation will be introduced in the next few months to address this.

Currently road and highway construction is doing well because of the stimulus, but the long term outlook depends on legislation and appropriation in the coming years.

There will be safety impacts because much of the work will consist of rehabilitation of existing roadways, exposing workers to traffic in work zones. Most highway construction injuries and fatalities come from workers being struck by vehicles. An additional hazard comes from workers on foot working adjacent to large pieces of moving equipment.

There will be an increase in employment which will bring inexperienced workers onto the job site and increase the need for training.

Contracts could come with government requirements for training such as the OSHA 10 hour, Safety Orientation, Supervisor Training, etc. There could be minimum safety requirements such as design for safety, and the safety record of the company could be considered in awarding contracts. We do not want an increase in construction to bring an increase in fatalities or injuries. There has been a significant drop in fatalities and injuries over the last few years and we would like to see that continue.

Scott Schnider – As a result of the stimulus funds there will be an increase in employment in the industry. Injury rates may increase because of lack of training. All workers employed in these government funded projects should be required to attend the OSHA 10 Hour training. Safety training should be required for all supervisors. Studies indicate that when workers are paid the prevailing wage rates safety improves.

Awarding contracts to the lowest bidder often means shortcuts are taken on safety. Making safety a contract requirement ensures jobs are done better and safer. Design for safety could prevent many injuries and fatalities. The government should require that all stimulus funded projects include design for safety. The safety record of subcontractors should be considered in awarding subcontracts, and the general contractor should ensure that all safety precautions are followed.

Worker involvement is the key to a successful safety and health program. Requiring joint safety and health committees on jobsites can make a huge difference in working conditions. One of the functions of the committee is to make frequent audits of the site and to ensure hazards are quickly corrected. Health hazards are often ignored because the emphasis is on preventing injuries and fatalities. Anonymous Safety Culture Surveys can be used to improve safety programs.

A requirement to use quieter equipment could be included in the stimulus funding. Any project funded by stimulus money should be required to minimize the risk of sprain and strain injuries.

On all critical tasks a competent person should be required to be on site, many OSHA regulations already require that.

The stimulus will generate shift work and night work. Workers will have to travel to jobs. Most jobs will have no retirement. Health and welfare programs are down as a result of the economy.

There will be an emphasis on keeping traffic flowing through the worksites and workers will be exposed to being struck by traffic and construction equipment. Contractors should be required to Address this by taking safety measures such as instituting internal traffic control programs.

Howard Schwartz – The schedule imposed by the stimulus legislation will mean that there will be many asphalt paving projects. Many of these jobs will be done quickly and often at night because of traffic issues. The NAPA and the asphalt industry are dedicated to making sure these projects are done safely and that workers are fully protected in the workplace.

Asphalt is one of the most recycled products in the United States, over 80% is reused. Mr. Schwartz indicated that there is reason for concern about some of the latest efforts to add other recycled materials such as ground up electronics parts to asphalt.

New methods of producing asphalt use lower temperatures and save fuel while reducing greenhouse gasses. Mr. Schwartz sees this as becoming the industry norm within five years.

There are several new products in the asphalt industry which are “greening” the blacktop. For example, porous asphalt pavement has the ability to act as a horizontal water treatment system..

The asphalt paving industry is ready to fast track stimulus projects and so it in an environmentally safe manner which also protects workers.

Mr. Emmett Russell – Transportation infrastructure, energy, job creation and protecting workers are the areas that will most impact the industry. .

Mr. Russell indicated that there will be a lot of work in stimulus projects related to aviation and transportation infrastructure. About 1.8 million jobs will be created and there will be about 3.2 billion dollars in economic activity. Money spent in construction will have a major impact to the entire economy. For every billion dollars there will be about 35,000 jobs created, about half will be in construction. Of the construction jobs, about a fifth will be equipment operators or equipment related.

Mr. Russell indicated that his organization is involved in training operators and that many are seeking to upgrade their training to operate a wider assortment of equipment. GPS is beginning to be incorporated into equipment and is appearing in the training. Training is also being done for members working in the pipeline industry. Welding, CDL and paving are areas where training is being done. Business owners and employers are beginning to require OSHA 10 training when workers first come on site.

The union is now partnering more with contractors on training and is encouraging contractors to do more safety training on site.

Crane training and operator certification is an area that needs attention. Mr. Russell and his union is in favor of using the proposed OSHA standard as a best practices document and beginning to use it in training now.

Because of the economy some workers are staying on the job rather than retiring, and health and welfare programs are being impacted. Overall worker health may be affected because of aging workers.

Don Elsberg - There is beginning to be a precedent for having the state Departments of Transportation become more engaged as an owner to look at safety on their projects. This in turn will involve the supervisors.

Now trying to get information to the entire industry where the hazards are and where focus needs to be. Training materials have evolved to meet needs of different audiences,

Brad Sant gave a presentation on training software and materials being developed under a Harwood grant. It is used for refresher and orientation training. There are over 20 modules which focus on common work zone hazards including hearing loss and trenching safety.. Information is available at www.workzonesafety.org .

A module developed as part of the training package has been made into a stand alone course addressing highway work zones in a disaster response situation. It helps workers understand that while they are doing the same work it is being done under entirely different hazard conditions and a different supervisory structure.

A video addressing silica and milling machines was viewed by the committee.

Tom Kavicky moved ACCSH recommend that OSHA have a separate demonstration room available for a demonstration of residential fall protection by NIOSH and others. The motion was seconded and passed unanimously.

Emmett Russell moved ACCSH recommend that OSHA update its computer technology to avoid the problems experienced at the ACCSH meeting today. The motion was seconded and passed unanimously.

Stimulus Impact: Green construction

Don Ellenberger, Director of Environmental Hazard Training for the Center for Construction Research (CPRW) said that while the Green Jobs Act of 2007 has not been funded that with the new administration it might be. The act designates 500 million dollars to prepare workers for green jobs.

He said that the Environmental Protection Agency allocations of interest include 600 million dollars for the cleanup superfund, 100 million for Brownfield cleanup, 6 billion for the clean water state fund and 200 million for leaking underground tanks. The EPA intends to try to “go green” while doing these cleanups.

The Department of Energy will grant 5.5 billion for federal construction, 5 billion for housing weatherization (a maximum of \$6,500 per house), 11 billion for energy production and transmission, 6 billion for renewable energy and 11 billion for smart grid.

DOE site cleanup will include 1.9 billion for Hanford, 1.6 billion for Savannah River, and 775 million for Oak Ridge.

Mr. Ellenberger said that some stimulus dollars will require use of the Leadership in Energy and Environmental Design (LEED) suite of standards. He discussed a construction project in Las Vegas which created health issues for workers by strictly adhering to the standards, rather than allowing some ventilation, which exposed workers to extreme heat stress.

CPRW is considering a system to rate safety along with LEED.

He discussed housing retrofits, which will be primarily to the building envelope. Training will be required for workers, and safety hazards will need to be identified.

Sustainable energy will involve new workers and safety and health training for them. Environmental remediation projects will involve exposure to asbestos, lead, PCBs and energy derived waste. Home weatherization will involve exposure to asbestos and lead paint.

Training must be made available, and will require more instructors.

Stimulus Impact: Transit and Other Sectors

Mr. Marco Giamberardino, Senior Director, Federal and Heavy Construction Division of the Associated General Contractors of America (AGC) addressed the effect of the economic turndown on his sector of the construction industry.

Over 995,000 jobs have been lost as work slowed due to tight credit and slowed spending.

He said that according to a George Mason University study each billion dollars of stimulus money invested will create 28,500 jobs and 3.4 billion in gross domestic product.

AGCs goals are to maximize infrastructure reinvestment, use existing programs to make an immediate impact, make sure needs are recognized, and ensure adequate oversight of the money.

Safety considerations as construction ramps up include increased workload, night work, fatigue, and new hires without training.

AGC offers an advanced safety management course for supervisors and managers, and Focus Four is being taught.

The AGC website is available at www.agc.org

Stimulus Impact: Tracking Outcomes; Research to Practice; Promoting Good Practice

Mr. Matt Gillen, NIOSH senior scientist and construction program coordinator, addressed five questions concerning stimulus impact on construction safety and health:

1. What economy related factors might affect construction safety and health?

Factors positively affecting safety might include slower paced work, a larger share of workers are experienced, less use of worn and unsafe equipment and less reporting because of fear of job loss. Negative factors might be more competitive bidding, overtime, stress from increased pace, longer lost time because of older workers being away from the job longer and complacency

2. What does research tell us about business cycle effects on safety?

Research available is based on previous recessions, there is no research yet on the current situation. Studies have shown that workers comp claims decline in recessions and increase in the recovery.

3. How well will our National injury and illness reporting system allow us to observe effects of the business cycle on safety and health?

Applicable data is scarce and it may be challenging to track business cycle effects. OSHA might be interested in requiring reporting to allow or facilitate such tracking.

4. Are hazards associated with stimulus work well known?

Some hazards, such as those of road and bridge work, are well known, hazards involved with green work are not so well known, for example retrofitting homes might involve exposure to PCBs from removing old caulk while installing windows.

5. Can lessons from green construction be applied to stimulus work?

Sustainable practices have spread, 13 federal agencies now require some level of LEED or other certification. Federal agencies are required to consider green factors when leasing buildings.

Truly sustainable construction should involve improving construction worker safety and reducing fatalities.

There are a variety of factors that could impact safety or health negatively or positively, some are still in recession and others are in boom conditions because of the stimulus.

Discussion Period

The committee discussed workgroup organization, and the possibility of adding people by name to the subcommittees. Mr. Buchet explained that while members of the public can participate in workgroups they may not be named as members.

Walter Jones moved ACCSH recommend that OSHA update ACCSH on the principles for construction safety for Federal stimulus decision makers to ensure that worker safety is included as a fundamental objective for every stimulus project. The motion was seconded and passed unanimously.

Public Comment

Mr. Mike Rossert, Corporate Safety Services, commented that there is a lot of confusion concerning the Susan Harwood grant program. He asked the committee to discuss and request guidance regarding the program. He stated that when the grant period is over the organization which received the grant is allowed to copyright materials developed, and the material is not then freely available to the public. He also commented that ACCSH should find out exactly who can be trained with the grant funds.

Mr. Migliaccio indicated that he will ask OTI to have someone attend an OTI workgroup meeting to explain the Harwood Grant.

Matt Gillen moved to adjourn the ACCSH meeting. The motion was seconded and passed unanimously. The meeting adjourned at 1:00 p.m. on April 17, 2009.

Exhibits from ACCSH 16-17 April 2009 meeting

- Ex. 0002 BLS 2007 Fatal Occupational Injuries by Industry and Event of Exposure (Table A-1).
- Ex. 0003 BLS 2007 Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types (Table 1).
- Ex. 0004 U.S. Census Bureau 2006 Census of U.S. Businesses by Employment Size.
- Ex. 0005 Hardcopy of PowerPoint titled "Construction Cooperative Programs" presented by Cathy Oliver, OSHA Directorate of Cooperative and State Programs.
- Ex. 0006 Hardcopy of PowerPoint titled "NIOSH Update" presented by Matt Gillen, NIOSH Construction Program Coordinator.
- Ex. 0007 "Construction Research at NIOSH: Reviews of Research Programs of the National Institute for Occupational Safety and Health," The National Academy Press, 2008. *[This book is copyrighted so it cannot be put online.]*
- Ex. 0008 Powered Fastening Tools (Nailguns) Work Group report from April 14, 2009, meeting approved by ACCSH.
- Ex. 0009 Hardcopy of PowerPoint titled "Nailgun Injuries in Residential Construction" presented by Hester Lipscomb, Duke University, at the Powered Fastening Tools (Nailguns) Work Group meeting on April 14, 2009.
- Ex. 0010 Hardcopy of PowerPoint titled "Powered Fastening Safety" presented by the International Staple, Nail and Tool Association at the Powered Fastening Tools (Nailguns) Work Group meeting April 14, 2009.
- Ex. 0011 Rollover Protective Structures (ROPS) Work Group report from April 14, 2009, meeting approved by ACCSH.
- Ex. 0012 OSHA Safety and Health Information Bulletin on Compactor Rollover Hazards.
- Ex. 0013 Hardcopy of PowerPoint titled "Safety in Excavation" presented by Keith Lamberson, Trench Shoring and Shielding Association.
- Ex. 0014 Trenching Work Group report from April 15, 2009, meeting approved by ACCSH.
- Ex. 0015 Silica Work Group report from April 14, 2009, meeting approved by ACCSH.
- Ex. 0016 Regulatory Compliance Work Group report from April 15, 2009, meeting approved by ACCSH.
- Ex. 0017 David Weil, "Making OSHA Inspectors More Effective: Alternatives for Improved Inspection Targeting in the Construction Industry, Center for the Protection of Worker Rights, 2004. *[This document is copyrighted but CPWR sent us a release permitting us to put the article in the docket. Release is attachment to this exhibit.]*
- Ex. 0017.1 Release from Center for the Protection of Worker Rights permitting OSHA to put David Weil article in Docket No. OSHA-2009-0001.

- Ex. 0018 Diversity/Women in Construction Work Group report from April 14, 2009, meeting approved by OSHA.
- Ex. 0019 BLS, “2007 Fatal Occupational Injuries by Worker Characteristics and Even of Exposure.”
- Ex. 0020 “Employment, Hours, and Earning of Women in Construction,” from the Current Employment Statistics Survey.
- Ex. 0021 Residential Fall Protection Work Group report from April 14, 2009, meeting approved by ACCSH.
- Ex. 0022 Arizona at Work, “The Fight Over Falls,” Winter 2009. *[This document is copyrighted but SCF Arizona sent us a release allowing OSHA to distribute the article. Release is attachment to this exhibit. Article is marked with paperclip]*
- Ex. 0022.1 Release from Jan Johnson, SCF Arizona communications manager, giving OSHA permission to distribute “The Fight to Work.”
- Ex. 0023 Construction Safety Council, Focus 4 Construction Hazards Flip Chart (Spanish).
- Ex. 0023.1 “Focus 4 – A Grassroots Approach” presented by Construction Safety Council.
- Ex. 0024 Construction Safety Council, Focus 4 Construction Hazards Workbook (English/Polish).
- Ex. 0025 Construction Safety Council, Focus 4 Construction Hazards Workbook (English/Spanish).
- Ex. 0026 Multilingual Work Group report from April 15, 2009, meeting approved by ACCSH.
- Ex. 0027 Agenda for April 16-17, 2009, ACCSH meeting and April 14-15, 2009, ACCSH Work Group meetings.
- Ex. 0028 Hardcopy of PowerPoint on Stimulus Package Construction funding presented by Rusty Sherwood, McGraw-Hill Construction.
- Ex. 0029 Scott Schneider, Laborers’ Health & Safety Fund of North America, “The Stimulus Plan and Construction Safety and Health.”
- Ex. 0030 Hardcopy of PowerPoint titled “Economic Stimulus Package: Impact on equipment operators in the construction industry, the IUOE perspective,” presented by Emmett Russell, International Union of Operating Engineers.
- Ex. 0031 Howard Marks, National Asphalt Paving Association, comments to ACCSH on “The impacts of the 2009 Stimulus package on the asphalt pavement industry.”
- Ex. 0032 “Road Building Stimulus Overview” presentation by Brad Sant, American Road and Transportation Builders Association.
- Ex. 0033 OTI Work Group report from April 15, 2009, meeting approved by ACCSH.
- Ex. 0034 Hardcopy of PowerPoint titled “Work Zone Training and Guidelines Development Grant” presented by Brad Sant, American Road and Transportation Builders Association.

- Ex. 0035 CD titled "Roadway Safety +: A Road Construction Industry Consortium Training Program."
- Ex. 0036 CD titled "Silica-Milling Machine Partnership."
- Ex. 0037 CD titled "Roadway Safety +: Disaster Response," by American Road and Transportation Builders Association. *[This CD is copyrighted and cannot go on-line.]*
- Ex. 0038 Hardcopy of PowerPoint on Stimulus Impact: Green Construction presented by Donald Ellenberger, The Center for Construction Research and Training.
- Ex. 0039 Notes of Donald Ellenberger's comments to ACCSH.
- Ex. 0040 Hardcopy of PowerPoint on Stimulus Impact: Transit/Other Sectors presented by Marco Giamberardino, Associated General Contractors.
- Ex. 0041 Hardcopy of PowerPoint entitled "Stimulus Challenges and Opportunities Ahead" presented by Matt Gillen.

MICHAEL JARED THIBODEAUX

25 MAY 2009

1201 SKYLINE VISTA

WIMBERLEY, TEXAS 78676-6062

Mr. Noah Connell, Designated Federal Official

Deputy Director-Directorate of Construction-OSHA

U S Department of Labor, Room N3468

200 Constitution Avenue, NW

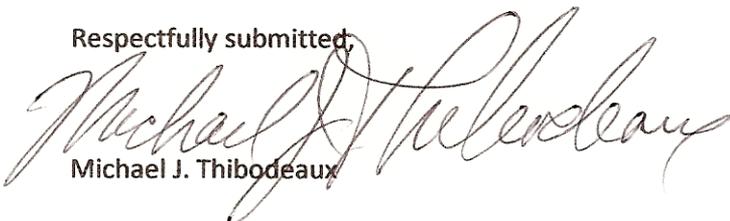
Washington, DC 20210

Dear Mr. Connell:

I have read the Advisory Committee on Construction Safety and Health(ACCSH) meeting minutes of 16-17 April 2009, as revised from member and staff comments. I was Chairman of the Meeting for 16 April 2009.

I certify the portions of the revised ACCSH 16-17 April 2009, minutes, which represent committee activities on 16 April 2009, are true and correct.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael J. Thibodeaux". The signature is written in black ink and is positioned over the typed name and title.

Michael J. Thibodeaux

Chairman

Advisory Committee on Construction Safety and Health
Occupational Safety and Health Administration, Directorate of Construction
U.S. Department of Labor, Room N 3468
200 Constitution Avenue, NW
Washington, DC 20210

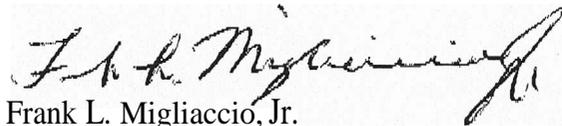
Mr. Noah Connell, Designated Federal Official
Advisory Committee on Construction Safety and Health
Deputy Director-Directorate of Construction
Occupational Safety and Health Administration
U.S. Department of Labor, Room N 3468
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Connell:

I have read the Advisory Committee on Construction Safety and Health (ACCSW) meeting minutes of April 16-17, 2009, as revised from member and staff comments. Because the term of my chairmanship appointment included one day of the meeting, this letter concerns the accuracy of the portions of the minutes pertaining to the day, which I chaired. I understand my predecessor, Mr. Michael J. Thibodeaux, who chaired the ACCSH meeting on April 16, 2009, is responsible for certifying the accuracy of the portions for that date.

I certify that only the portions of the revised ACCSM April 16-17, 2009, meeting minutes, which represent committee activities on April 17, 2009, are true and correct.

Respectfully submitted,



Frank L. Migliaccio, Jr.
Chairman

6/30/09

Cc: Michael Buchet, ACCSH Project Officer