

Advisory Committee on Construction Safety and Health (ACCSH)

Minutes April 25-26, 2016, Meeting

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, N.W.
Washington, DC 20210

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by Chairman Erich J. (Pete) Stafford at 1:00 p.m., on Monday, April 25, 2016. The following committee members, OSHA staff, and other attendees were present:

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Erich J. (Pete) Stafford Chair	Employee Representative	Director of Safety and Health, North America's Building Trades Unions; Executive Director of CPWR-The Center for Construction Research and Training
Kevin R. Cannon	Employer Representative	Director of Safety and Health Services, The Associated General Contractors of America
Steven L. Rank	Employee Representative	Executive Director of Safety and Health, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
Cindy DePrater	Employer Representative	Vice President, Director Environmental, Health and Safety, Turner Construction Company
Charles Stribling	State Representative	Kentucky Labor Cabinet Department of Workplace Standards
Steven D. Hawkins	State Representative	Administrator, Tennessee Occupational Safety and Health Administration
Palmer Hickman	Employee Representative	Director of Safety Code Training & Curriculum Development, Electrical Training ALLIANCE
Jeremy Bethancourt	Public Representative	Co-Owner and Program Director, Arizona Construction Training Alliance

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Donald L. Pratt	Employer Representative	President & CEO, Construction Education and Consultation Services of Michigan
Thomas Marrero, Jr.	Employer Representative	Safety Director, OTS Holdings
Jerry Rivera	Employer Representative	National Director of Safety, Power Design Inc.
Eric Kampert	Designated Federal Official	Director of Construction Services, Directorate of Construction, U.S. Department of Labor - OSHA
Lisa Wilson	ACCSH Counsel	Office of the Solicitor, U.S. Department of Labor

Other Attendees:

Dan Johnson	SFI Compliance
Wes Scott	National Safety Council
William Mott	Hunt Construction Group
Donna File	L. F. Driskoll, Inc.
Nigel Ellis	National Safety Council, OSHA Alliance, Ellis Fall Safety Solutions, LLC
Rodd Weber	PENTA Building Group
Travis Parsons	Laborers' International Union of North America
Eve Stocker	Occupational Safety and Health, Office of the Solicitor
Bill Hering	Matrix North American Construction, The Association of Union Constructors
Wayne Creasap	The Association of Union Constructors
Scott Schneider	Laborers' Health and Safety Fund of North America
Chelsea Vetick	National Association of Home Builders
George Kennedy	National Utility Contractors Association
Lee Cole	Oldcastle Materials
Howard Marks	National Asphalt Pavement Association
Nick Carr	OSHA, Directorate of Safety and Guidance
Carl Heinlein	American Contractors Insurance Group
Wesley Wheeler	National Electrical Contractors Association
Michele Mihelic	American Wind Energy Association
Josh Flesher	OSHA, Acting Deputy Director, Directorate of Construction

Troy Armstead	Department of Defense, Air Force
Bruce Rolfsen	Bloomberg BNA
Bruce Lundegren	Small Business Administration, Office of Advocacy
Luke George	National Safety Council
Dave Reynolds	Inside OSHA Newsletter
Mark Hagemann	OSHA, Directorate of Standards and Guidance
Jens Svenson	OSHA, Directorate of Construction, Office of Construction Standards and Guidance
Blake Skogland	Occupational Safety and Health Administration, Construction Services
Damon Bonneau	OSHA, Directorate of Construction, Office of Construction Services
Jennifer Lawless	OSHA, Directorate of Construction, Office of Construction Services
Danezza Quintero	OSHA, Directorate of Construction, Office of Construction Services
Robert Matuga	National Association of Home Builders
William Zettler	OSHA, Directorate of Standards and Guidance
Mark Hagermann	OSHA, Directorate of Standards and Guidance
Garvin Branch	OSHA, Directorate of Construction, Acting Director, Office of Construction Standards and Guidance
Courtney Murray	OSHA, Directorate of Construction, Office of Construction Services
Lolita Oliver	OSHA, Directorate of Construction, Office of Construction Services

Opening Remarks

Speaker: Chairman Erich J. (Pete) Stafford

Chairman Stafford welcomed the attendees and requested self-introductions of the committee members and the audience. He then provided an explanation of the purpose of this special meeting and an overview of the meeting agenda. Chairman Stafford noted that this meeting afforded ACCSH a unique opportunity to help develop Safety & Health Program Management guidelines that could have a lasting impact on the safety of all workers in the construction industry. He also highlighted a change in the meeting format. Public comments would be heard at the beginning of the meeting rather than at the conclusion. This will enable the committee members to consider input directly from the industry prior to making recommendations to the Agency. The goal at the conclusion of the meeting is to present to the Agency a draft Construction Safety & Health Program Management Guidelines document for consideration.

For a full account of Chairman Stafford's presentation, refer to page 6 (Line 3) of the April 25, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

OSHA Designated Federal Official:

Speaker: Mr. Eric Kampert, Director, Office of Construction Services, OSHA

Mr. Kampert welcomed all the attendees and provided the background for the special meeting. Mr. Kampert shared that OSHA is updating its' Safety and Health Program Management Guidelines which were first published in 1989. The guidelines require updating to reflect changes in the workplace, modern safety practices, and current consensus standards. During the public comment period of the draft guidelines OSHA received significant and substantial

comments from construction stakeholders stating that there should be separate set of guidelines for the construction industry. This was due to, among other things, the unique nature of construction employment, including the mobile and temporary nature of construction work sites. He encouraged open discussion among the ACCSH members during this meeting to ensure that the guidelines that are proposed address the issues related to construction work sites and employment.

For a full account of Mr. Kampert's opening comments, refer to page 13 (Line 14) of the April 25, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Public Comments

Dan Johnson, SFI Compliance

Mr. Johnson stated that Subpart C of 1926 has long required employers to provide safety programs for accident prevention. This includes maintaining such programs that provide for frequent and regular inspections of jobsites, materials and equipment to be made by competent persons designated by their employers. Mr. Johnson said that any clarification on these standards, definitions of what OSHA sees as "frequent and regular," as it applies to inspections on site, a multi-employer worksite policy, and safety program guidelines, would be very helpful for the construction industry.

For a full account of Mr. Johnson's comments, refer to page 17 (Line 9) of the April 25, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Wes Scott, National Safety Council (NSC)

Mr. Scott stated that he believed meaningful communication and engagement of workers is crucial for managing safety programs on construction sites. He believes all needed information should be spelled out in a construction based guidance of safety and health programs management. There needs to be guidelines for small and medium sized construction employers, as those folks are in need of a "how-to" checklist of sorts to explain all the items they need to know, from what type of liability to sustaining a small contractor safety and health management program.

For a full account of Mr. Scott's comments, refer to page 24 (Line 3) of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Bill Mott, Hunt Construction Group

Mr. Mott stated this is a positive endeavor, and that many of the provisions are general, and many are already being done. He emphasized that the industry needed a document that could be used by the smaller contractors. This should provide where they can go to get the information and not create a huge book. We all know the bigger the book the longer it stays on the shelf. If OSHA has a "where to go" to find the information, the millennials are more likely to go look on their phones and computers to look things up. This needs to be workable and have the basics.

For a full account of Mr. Mott's comments, refer to page 26 (Line 8) of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Nigel Ellis, National Safety Council

Mr. Ellis stated he was just presenting a concept which he thought needed mentioning. He said, if we're going to do a Safety and Health Program Management Guidelines for not only general industry, but also for construction as well; it occurred to him that there might be another bullet point that could be added, and it's a very simple one. "Seek out relevant published data -- published research to help improve safety methods."

For a full account of Mr. Ellis's comments, refer to page 44 (Line 21) of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

For a full account of the entire Public Comments period and the committee's discussion, refer to page 17 (Line 9) thru page 61 (Line 15) of the April 25, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Draft Safety & Health Program Management Guidelines section-by-section discussion:

The committee decided to go through the existing draft Safety and Health Program Management Guidelines (S&HPMG) section by section and make it fit the construction industry. This consisted of modifying language, including terms and definitions that reflect the terms used throughout Part 1926 and inserting recommendations the committee thought were appropriate.

Introduction Section Recommendations:

- General comment: Page 2 - Make sure the costs reflect construction site costs and the characters resemble construction workers.
- Page 3 - How to Use the Guidelines - Third paragraph - Delete first sentence and modify second sentence to read: "The preventative approaches described in these guidelines work well for small and large organizations in the construction industry."

The committee recommended several other editorial changes to this section. For a full account of ACCSH's discussion on the Introduction section of the existing draft S&HPMG, refer to page 61 (Line 17) thru page 99, of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Management Leadership Section Recommendations:

- Page 6 - Delete first paragraph and replace it with: It's important for company leadership, no matter company size, to demonstrate to workers that safety is essential to every project, and the company will not only support them, but encourage them to raise safety concerns.

- Page 6 - Action Item 1 - Communicate your commitment to a safety and health program - How to accomplish it - Delete all of the existing bullets and add the following:
 - Prepare a written policy that clearly spells out how important safety is and communicate it to all workers when they first come to work. There are a lot of resources available to construction employers, such as sample written policies and programs, included in Appendix XXXX.
- Page 7 - Action Item 3 - Allocate resources - First paragraph: Move the NOTE from the end of Action Item 3 to be part of the first paragraph.
- Page 7 - Action Item 4 - Expect performance - How to accomplish it - First bullet: Delete “and local management”
- Page 7 - Action Item 4 - Expect performance - How to accomplish it - Delete third bullet.
- Page 7 - Action Item 4 - Expect performance - How to accomplish it - Add the following bullets:
 - All management reps on the site (owners, supervisors, foremen) must follow all safety rules. They should be safety leaders on the jobsite, and should ensure planning meetings/huddles include safety and health as an integral part of daily jobsite planning. A new training resource, Foundations for Safety Leadership (FSL), has been developed for the construction industry and is available free of charge to employers of all sizes for their own use, and it will also be included as an elective module in the OSHA 30-hour construction course.
 - Conduct weekly or daily toolbox talks on safety and health. Appendix XXXX includes references to an abundance of resources where contractors can go to get toolbox talks, hazard alert cards, apps, and other resources for their use free of charge.
 - Every worker should get an orientation when they first come on the jobsite that focuses on safety and the potential hazards of the specific site. It also has to stress their right to a safe jobsite and encourage workers to speak up if they see anything wrong and assure them that getting hazards corrected is a top priority.

The committee recommended several other editorial changes to this section. For a full account of ACCSH’s discussion on the Management Leadership section of the existing draft S&HPMG, refer to page 143 (Line 22) thru page 180, of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Worker Participation Section Recommendations:

- Page 8 - Note - Delete “as can mandatory drug testing after reporting injuries.”
- Page 8 - Action Item 1 - Encourage workers to report safety and health concerns - Opening paragraph - Insert the following at the beginning of the paragraph: Your workers are the first line of defense. They will spot hazards before you do, so it is extremely important that they are engaged and empowered to take action if they see a hazard that may not only endanger them and their co-workers, but also workers employed by other contractors on multi-employer sites.
- Page 8 - Action Item 1 - Encourage workers to report safety and health concerns - Opening paragraph - Existing first sentence - Change to read: Workers are often best

positioned to identify safety and health hazards such as unsafe conditions, close calls/near misses, and actual incidents.

- Page 8 - Action Item 1 - Encourage workers to report safety and health concerns - Insert the following at the beginning of the opening paragraph: Your workers are the first line of defense. They may spot hazards before you do, so it is extremely important that they are engaged and empowered to take action if they see a hazard that may not only endanger them and their co-workers, but also workers employed by other contractors on multi-employer sites.
- Page 9 - Action Item 3 - Involve workers in all aspects of the program - Add the following bullets:
 - Since workers often have the best ideas on how to do the work safely, daily planning meetings/huddles/tool box talks should be held to engage workers in the safety and health program. These are opportunities to listen to workers and get their input.
 - Workers can also support the program through participation in jobsite walk arounds to identify potential safety and health problems. Construction sites are constantly changing and hazards can be created with every change. This is why periodic inspections are important.
 - For particularly hazardous tasks, a “job safety analysis” or JSA before the task will help review the potential hazards and the precautions which need to be taken. Experienced workers can lead and be in charge of JSAs. These quick reminders just before a task can be very helpful.
 - When accidents do happen it is important to understand all the factors that contributed to it in order to prevent future incidents. Workers can help do investigations. It doesn’t have to be complicated or elaborate, but it can’t be dismissive. Just saying that it was due to “carelessness” assigns blame but doesn’t help you prevent future incidents.

The committee recommended several other editorial changes to this section. For a full account of ACCSH’s discussion on the Worker Participation section of the existing draft S&HPMG, refer to page 180 (Line 24) thru page 194, of the April 25, 2016 meeting transcript in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

The meeting was adjourned at 5:03 p.m.

DAY 2: APRIL 26, 2016:

Opening Remarks

Speaker: Chairman Pete Stafford

Mr. Stafford took a head count to ensure a quorum was present to open the meeting. He welcomed everyone and reminded the committee of the decision they made yesterday to go through the draft OSHA Safety & Health Program Management Guidelines (S&HPMG) section by section and make it fit the construction industry. He also reminded the committee that Dr. Michaels was on the agenda to speak this afternoon. After introductions, the committee began their discussion of the S&HPMG beginning with the Hazard Identification and Assessment section.

For a full account of Mr. Stafford's opening comments, refer to page 200 (Line 3) thru page 206, of the April 26, 2016 meeting transcript (Line 25), in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Hazard Identification and Assessment Section Recommendations:

- Page 11 - Opening paragraph - Insert the following at the beginning of the paragraph: Does everyone on the site know a hazard when they see one? How do we make sure that they do? What happens once a hazard gets identified? How do we make sure it gets corrected in a timely manner?
- Page 12 - Action Item 2 - Inspect the workplace - How to accomplish it - Third bullet - Delete sub-bullets: Chemical agent, Biological agents, work and process flow. Add sub-bullets: Fall protection, Electrical hazards
- Page 12 - Action Item 2 - Inspect the workplace - Note: Move the "Note" from the end of Action Item 2 to the beginning of this section before the opening paragraph.
- Page 14 - Action Item 4 - Identify hazards associated with emergency and non-routine situations - How to accomplish it - Add the following bullets:
 - Many times accidents happen when workers are doing something they are not normally doing, a non-routine task. These tasks should be approached with particular caution and require JSAs be reviewed with special attention.
 - Preparations should be made for emergency situations. Who will call 911? Are emergency supplies available in the truck or on the site? Emergencies like a fall can happen on any site at any time.

The committee recommended several other editorial changes to this section. For a full account of comments and the committee's discussion of the Hazard Identification and Assessment section of the existing draft S&HPMG, refer to page 207 (Line 6) thru page 245, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Hazard Prevention and Control Section Recommendations:

- Page 17 - Action Item 3 - Develop and update a hazard control plan - Opening paragraph: Delete last sentence in opening paragraph.
- Page 17 - Action Item 4 - Select controls to protect workers during non-routine operations and emergencies - Title - Change title to read: Select controls to protect workers during non-routine “tasks” and emergencies
- Page 17 - Action Item 4 - Select controls to protect workers during non-routine operations and emergencies - Opening paragraph - Change opening paragraph to read: Plan to protect workers during non-routine tasks and foreseeable emergencies, such as fires and explosions, chemical releases, hazardous material spills, natural disasters, and weather and medical emergencies.
- Page 18 - Action Item 5 - Implement selected controls in the workplace - Opening paragraph - Insert the following as a new second paragraph: Letting problems languish inevitably means someone will get hurt and, in addition, it destroys trust and workers will get discouraged about bringing up problems because they will think it won’t make any difference.
- Page 18 - Action Item 5 - Implement selected controls in the workplace - How to accomplish it - Delete the second bullet.
- Page 18 - Action Item 6 - Follow up to confirm that controls are effective - How to accomplish it - Fourth bullet - Add the following sub-bullet:
 - Have the controls been communicated to other contractors in the area?

The committee recommended several other editorial changes to this section. For a full account of comments and the committees discussion of the Hazard Prevention and Control section of the existing draft S&HPMG, refer to page 245 (Line 25) thru page 274, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Education and Training Section Recommendations:

- General comment - This Education and Training section needs to be developed for Managers and Workers. Those two words need to be incorporated throughout the Education and Training section.
- Page 19 - Opening paragraph - First sentence - Change to read: Managers and workers who know about workplace hazards and the measures in place to control them can work more safely and be more productive.
- Page 19 - Action Item 1 - Provide program awareness training - How to accomplish it - Add the following bullet:
 - Every worker must have some basic training in hazard recognition. As a starting point, all workers should have the OSHA10 hour, or similar course, to be supplemented by orientation training and toolbox talks/JSAs to cover hazards on each specific site.
- Page 20 - Action Item 2 - Train workers on their specific roles and responsibilities in the safety and health program - Rename section title to: Train managers and workers on their specific roles and responsibilities in the safety and health program.
- Page 20 - Action Item 2 - Train managers and workers on their specific roles and responsibilities in the safety and health program - Opening paragraph - Change to read:

Additional training may be needed to ensure that management and workers understand their roles and carry out their responsibilities, daily routines and activities.

- Page 20 - Action Item 3 - Train workers on hazard identification and controls - Rename section title to: Train managers and workers on hazard identification and controls.
- Page 20 - Action Item 3 - Train managers and workers on hazard identification and controls - How to accomplish it - Add the following bullet:
 - Workers need information about potential hazards. For example, if hazardous chemicals are used, the Safety Data Sheets (SDS) must be easily available and workers must have HazCom training so they can read the labels and SDSs and know what precautions are necessary. Access to the injury logs (OSHA 300) can also help them understand what incidents have occurred and where hazardous conditions might need to be addressed.

The committee recommended several other editorial changes to this section. For a full account of comments and the committee's discussion of the Education and Training section of the existing draft S&HPMG, refer to page 274 (Line 18) thru page 310, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Program Evaluation and Improvement Section Recommendations:

- Page 21 - Opening section - Second paragraph: Delete second paragraph and the first bullet.
- Page 21 - Opening section - Second paragraph: Make the second bullet the second paragraph in this section.
- Page 21 - Action Item 1 - Monitor performance and progress - Opening paragraph - Delete first sentence.
- Page 21 - Action Item 1 - Monitor performance and progress - Second paragraph - General comment: Request clearer definitions/examples of leading and lagging indicators.
- Page 22 - Action Item 2 - Verify the program is implemented and is operating - Opening paragraph - Change opening paragraph to read: Continuously evaluate the effectiveness of the entire program and newer site specific programs on an ongoing basis to ensure that it operates as intended, controls identified hazards effectively, and drives progress toward established safety and health goals and objectives.
- Page 22 - Action Item 2 - Verify the program is implemented and is operating - Insert the following as a new second paragraph: The scope and frequency of program evaluations will vary depending on changes in OSHA standards, scope, complexity, and maturity of the program and on the types of hazards it must control.
- Page 22 - Action Item 2 - Verify the program is implemented and is operating - How to accomplish it - First bullet - Change first bullet to read: Verify that the program's core elements have been fully and effectively implemented on each of your job sites.
- Page 22 - Action Item 2 - Verify the program is implemented and is operating - How to accomplish it - Second bullet - Fourth sub-bullet - Change fourth sub-bullet to read: Collecting and reporting the data needed to monitor progress and performance such as lagging and leading indicators as identified in Action item 1.

- Page 22 - Action Item 3 - Correct program deficiencies and identify opportunities to improve - How to accomplish it - Second bullet - Change second bullet to read: Proactively seek input from managers, workers, supervisors, and other stakeholders on how you can improve the program, i.e., create a short anonymous survey.

The committee recommended several other editorial changes to this section. For a full account of comments and the committee's discussion of the Program Evaluation and Improvement section of the existing draft S&HPMG, refer to page 310 (Line 8) thru page 370, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Coordination and Communication on Multiemployer Worksites Section Recommendations:

- Page 23 - Delete the "Does This Element Apply to Me" section.
- Page 23 - Opening paragraph - Change opening paragraph to read: At most construction worksites today, workers of more than one employer work alongside or interact with each other. Typically, some workers are employed by a host employer, which may be an owner or general contractor, and others by contractors, subcontractors, temporary staffing, or are self-employed. In these settings, employers must establish mechanisms to coordinate their efforts and communicate information to ensure that all contractors and workers on site can participate in efforts to prevent and control injuries and illnesses.

The committee recommended several other editorial changes to this section. For a full account of comments and the committee's discussion of the Coordination and Communication on Multiemployer Worksites section of the existing draft S&HPMG, refer to page 371 (Line 1) thru page 500, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Motion: Chuck Stribling moved that ACCSH recommend that OSHA consider the changes to the Guidelines that the Committee agreed to. The motion was seconded and passed unanimously.

Motion: Pete Stafford moved that ACCSH recommend to OSHA that ACCSH have the opportunity to review the revisions to the Coordination and Communication on Multi-Employer Worksites section. The motion was seconded and passed unanimously.

Dr. Michaels addressed the group.

Dr. Michaels began by welcoming everyone in attendance to the meeting. He highlighted how grateful he was for the insight and advice the committee has provided, which has helped the Agency move forward in several areas. He expressed his appreciation for the work the committee had done this week in providing recommendation on the development of Safety & Health Program Management guidelines for the construction industry.

Dr. Michaels went on to address three areas with the committee:

2016 Fall Safety Stand-Down: Dr. Michaels reminded those in attendance of the upcoming Stand-Down. Last year, we reached about two and a half million workers in all 50 states and internationally. This year our goal is five million workers. We've been meeting with employer groups and unions all across the country. We are very excited about this and we think it'll have an impact.

§1926.1153 Respirable crystalline silica: Dr. Michaels talked to the group about the publication of the Final Silica Rule. He acknowledged that many of the attendees participated and gave the Agency data, which helped us put together what we think is a useful standard. We obviously think that the construction industry will mostly use Table 1. That was why we wrote it. It's written based on all the meetings we've had with the construction industry and the building trades for more than a decade. Employers they didn't want to have to measure their exposures, they just wanted to know what they can do to be safe.

Worker Memorial Day: Dr. Michaels highlighted that Worker Memorial Day was being observed this week. It is a day where there will be observances all over the country, often involving the families of workers who have been killed, reminding us that no one should have to sacrifice their life for a job. He said it was the ultimate right of every worker to be able to work without getting hurt.

For a full account of Dr. Michaels' session with ACCSH, refer to page 501 (Line 3) thru page 515, of the April 26, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Mr. Stafford wished everyone safe travels and adjourned the meeting at 4:15 p.m.