

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH
(ACCSH)

MINUTES of 17 February 17, 2005 Meeting

Chicago, IL

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by the **Acting Chair, Daniel Murphy**, at 9:30 a.m. on Thursday, February 17, 2005. The following members were present for the meeting:

NAME	SECTOR Represented	TITLE & ORGANIZATION
Daniel Murphy Acting Chair	Mgmt.	Sr. Vice President of Risk Control, St. Paul Fire & Marine Insurance
Scott Schneider	Labor	Director Of S&H, Laborers' Health & Safety Fund of North America
Michael Thibodeau	Mgmt.	Director Of Risk Management, Lennar Corporation
Greg Strudwick	Mgmt.	President, Greg Strudwick & Associates, Inc.
Linwood Smith	Mgmt.	Vice President of Risk Management & Safety T.A. Loving Company
Stephen Wiltshire	Mgmt.	National Safety Director of Sports & Public Assembly Group, Turner Construction Company
Kevin Beauregard	State	Assistant Deputy Commissioner, Director, Division of Occupational Safety & Health, N.C. DOL
Douglas Kalinowski	State	Chair, OSHSPA, Director, Michigan Occupational Safety and Health Administration
Thomas A. Broderick	Public	Executive Director, Construction Safety Council
Michael Hayslip	Public	President & Owner, National Excavation & Training Institute
Cheryl Estill	NIOSH	Industrial Hygiene Supervisor, Industry Wide Study Branch, DSHEFSCDC, NIOSH

NAME	SECTOR Represented	TITLE & ORGANIZATION
Bruce Swanson	Fed./ OSHA	Designated Federal Representative (DFR) for ACCSH, Director, Directorate of Construction (DOC)

Approximately 25 members of the public were in attendance at various times, as were a number of DOL/OSHA representatives, including **Sarah Shortall** (ACCSH Counsel, Office of the Solicitor), **Stephen Cloutier (DOC)** and **Mike Connors**, OSHA Regional Administrator, Chicago.

Daniel Murphy, the Acting ACCSH Chair, welcomed all attendees, and asked all present to sign in on the ACCSH sign-in sheet. He then discussed the emergency access route and facility information, and requested that attendees silence their cell phones. The Chair requested that members of the public who wished to address ACCSH submit their names to the Chair, and indicated that the public comment period would take place at the end of the meeting, prior to adjournment. The Committee members and attendees then introduced themselves.

Bruce Swanson, representing OSHA, provided an overview of the agenda and noted that there would be a presentation from the Steel Coalition regarding their proposal to remove a reserve from the current Construction Safety rule. A goal for the meeting was to receive comment from the committee regarding their proposal on Voluntary Lubricant Compliance Program for Steel Decking and Roofing.

Daniel Murphy then reviewed the minutes and requested from the committee a motion to accept the minutes as published. **Mr. Hayslip** made the following motion, which was seconded:

ACCSH MINUTES MOTION #1: Accept the minutes from the September 2004 ACCSH meeting.

11 votes yes
0 votes no

The attention of the committee was now directed to the draft rule on Confined Spaces, 29 CFR 1926 Subpart AA. A lengthy discussion ensued with comments and suggestions from the committee regarding the proposed rule for confined spaces in construction and OSHA's general rule covering work in confined spaces.

Mr. Thibodeau initiated a discussion on confined spaces with respect to the Homebuilders industry. The question pertained to what extent the proposed rule applied to homebuilders. The suggestion was raised that the rule could be burdensome and expensive to an industry where it did not fully apply. Mr. Thibodeau posed a question to the Committee asking if the general standards for confined spaces could apply to homebuilders.

The Committee discussed the existing standard and how it might apply to crawl spaces, basements and areas of homes not intended for habitation. The question of the cost of training and certifying an expert on confined spaces was raised and how a small contractor might access this expertise.

Related to the confined space discussion was the monitoring of air quality. **Mr. Hayslip** asked for a clarification of what constitutes "entry" into a confined space. The proposed rule defines entry as "the whole body," but Mr. Hayslip pointed out that there could be some risk, related to air quality, associated with a worker's head being placed in the confined space. **Mr. Hayslip** asked that carbon monoxide specifically be added to the potential hazards associated with confined spaces. **Ms. Estill** also discussed the certification of air-quality monitoring instruments and the specific requirement in the rule that it be in "working and in good condition." CHECK WORDING

The discussion turned to who, among the construction contractors, is responsible for monitoring and controlling confined spaces. **Ms. Estill** asked for a clarification when there are multiple employers working at a construction site. There was general agreement that the general contractor would be responsible for notifying subcontractors of the hazard and enforcement of the rule. **Mr. Schneider** added that any hazardous area should be posted in English and Spanish with a universal "Danger" symbol or icon.

Additional comments included a proposal from **Ms. Estill** for some sort of tag system to track workers in confined spaces. The proposal recommends that there be "face-to-face" communication to ensure that all workers safely leave a confined space before the monitor certifies that the work area is clear.

The discussion on confined spaces ended with a question regarding publication. **Mr. Swanson** confirmed that the plan was to publish the new rule in March, but that additional discussion and review could possibly push that date further out. He asked the Committee members to write down their questions and comments for review later in the program.

The program shifted to the presentation from the Steel Coalition. **Mr. Swanson** introduced **Patrick Bush** of U.S. Steel Corporation and Chairman of the OSHA/SENTRAC Steel Coalition (OSSC). Joining Mr. Bush were **Dr. Lee Shoemaker**, Coalition Technical Liaison, and **Robert Paul** of Epic Metals and the Steel Deck Institute. Mr. Bush provided printed copies of his presentation, a copy of recent correspondence between the Steel Coalition and OSHA, and a summary report on Lubricant Research funded by the Coalition and prepared by Dr. George Sotter, of Sotter Engineering.

Mr. Bush began his presentation with an overview of the OSSC purpose. The coalition's primary purpose is to promote and ensure worker safety, particularly as it relates to slip incidents on steel roofing, decking and structural steel. This is being accomplished through meetings with ACCSH and research described in the accompanying report. He provided background on the coalition and some of their accomplishments including test methods, studies and a voluntary compliance program.

Mr. Bush next provided an overview of the research and findings presented in Dr. Sotter's report. He noted that 33 construction sites were examined in eight states and more than 200 worker interviews were conducted. From this research they identified the key factors that contribute to slip and fall incidents. The coalition also visited European testing agencies to examine their research and slip prevention practices. An important finding from the study was that there are no instruments that can provide consistent and meaningful measurement of slip resistance.

Dr. Shoemaker next presented an overview of the lubricant research and the conclusions of the lubricant compliance program. He began his presentation with an explanation of how the study was conducted and the critical aspects of lubricants and how they affect worker safety. He referred the Committee's attention to the tabbed section of their handout entitled, "Lubricant Research Report." Their research indicated that only highly evaporative lubricants be used in the manufacture and handling of roofing products. Where the use of these lubricants is impractical, the study recommended the use of highly visible warning labels calling for the use of fall protection measures.

Mr. Bush closed their presentation with a request for the Committee to endorse their voluntary program and to remove the "reserved" paragraph 754(c)(2) from the Steel Erection Standard.

The Committee raised questions regarding the Coalition's correspondence with OSHA regarding their request and whether they

had received a formal reply. The answer was no. The Committee also asked the Solicitor's Office representative, **Ms. Shortall**, whether the removal of the "reserve" clause would constitute a technical or regulatory change. She agreed to investigate and report back to the Committee.

There was lengthy consideration of a proposed motion from **Mr. Smith** to accept the Coalition's proposal and remove the "reserve" clause. The time constraints of the meeting however lead to the decision to table the decision until the next ACCSH meeting to give the Committee more time to review the proposal.

Mr. Strudwick then proposed the following motion, which was seconded:

STEEL COALITION MOTION #2: Table Mr. Linwood Smith's motion (**see attached**) until the next ACCSH meeting to allow the Committee to review the proposal and associated materials.

11 votes yes

0 votes no

Ms. Shortall explained to the Committee that the approved motion to table Mr. Smith's motion means that it will be included in the agenda for the next meeting. Their information packets will include a copy of his motion for the Committee to consider.

Chairman Murphy next turned to **Ms. Estill** to introduce **Dr. Jeff Kohler**, Associate Director for Mining and Construction at NIOSH. Dr. Kohler provided some background on his organization and his new position in NIOSH. His purpose at the meeting was to describe several ongoing initiatives within NIOSH including grant programs to fund research at universities and research institutes. Their overall goal is to solve in a more timely fashion the critical problems facing the construction industry through practical, workable solutions that can be quickly implemented.

Dr. Kohler explained to the Committee that his initiative is moving to an outcome-based approach that is customer driven. Their research is directly tied to requests and needs from the field rather than projects based on fields of interest. He provided an example from the mining program to reduce respiratory diseases in miners. The example highlighted the process steps, goals and expected outcomes to reduce coal miners' exposure hazardous dust and minerals.

Discussion followed Dr. Kohler's presentation around the change process and how this research can be translated into practice. He explained that the goal-oriented approach will help drive the change process. He went on to explain that more information on NIOSH's R2P initiative will be posted on their website. These findings will be actively shared with OSHA and MSHA to promote collaboration between the agencies.

Mr. Swanson next pointed out to the Committee that Dr. Howard, the head of NIOSH, has appointed Dr. Kohler to represent NIOSH as a new ACCSH member. He will be replacing Commander Cheryl Estill. **Chairman Murphy** thanked Ms. Estill for her service on the Committee and that her contributions will be missed.

Chairman Murphy next asked for any public comments, but there were none registered. He announced that the Trenching and Excavation Subcommittee would be meeting later that afternoon.

The Committee returned its attention to the draft proposed rule on confined spaces in construction. **Chairman Murphy** next addressed the Committee asking for recommendations to accept, accept with comment, or reject the proposed rule. Ms. Shortall of the Solicitor's Office explained that the motion would have to be more specific and/or broken into several motions to be germane. If the motion included the comments of the Committee, she explained that these would have to be included in the record as exhibits. Mr. Beauregard proposed the following motion:

CONFINED SPACES MOTION #3: ACCSH recommends that OSHA move forward with the draft proposed standard for confined spaces in construction as provided to the members, taking into consideration written and verbal comments made by individual ACCSH members during this meeting.

Each of the Committee members was asked to state their names and vote individually on the motion.

11 votes yes, 2 with written comments
0 votes no

Written comments from Mr. Smith and Mr. Kalinowski were added to the record as exhibits 4 and 5.

(VENETA - I DO NOT HAVE COPIES OF THESE - I SUGGEST THAT THEY BE ATTACHED TO THE MINUTES)

Chairman Murphy ended the meeting with a review of the current workgroup assignments and asked the members to update their

commitments. **Mr. Thibodeaux** recommended that a fall protection workgroup be formed. **Mr. Schneider** added that the reports generated by previous workgroups be posted to the ACCSH website to ensure that findings from previous workgroups be readily accessible. He also requested an update on the noise and hearing conservation, and silica standards. Mr. Schneider ended his comments with an endorsement for another Hispanic Summit based on the success of the first event and provided his observations from the recent Hex Chrome hearings.

The Committee commented on the recently released safety cards produced by OSHA and asked that future cards be submitted for review by ACCSH before publication.

Mr. Hayslip thanked Ms. Shortall for her assistance with procedural matters and Ms. Chatmon for her work in organizing the meeting.

Chairman Murphy closed the meeting with an announcement that the next meeting would be conducted in May. The exact date would be based on members' schedules. **Ms. Shortall** confirmed that there were no public comments, after which **Mr. Hayslip** entered a motion to adjourn, which was seconded, with all in favor.

Whereupon ACCSH was adjourned at 1:07 pm, February 17, 2005.

ATTACHMENTS TO MINUTES

Voluntary Lubricant Program Motion - Tabled (Proposed by Mr. Smith, Seconded by Mr. Strudwick):

Encourage the use of highly evaporative lubricants or removal of non-evaporative lubricants prior to shipping decking and roofing products to construction sites.

Ask that when decking and roofing products cannot be shipped without the use or removal of non-evaporative lubricants, that warning labels be placed on the bundles or the products themselves indicating that fall protection measures be used whenever workers walk on the labeled products regardless of the slope at which they are installed.

Remove the wording "reserved" from paragraph 754{c}{2} from OSHA's Steel Erection Standard, 29 CFR 1926.754 {c}{2}.