

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

MINUTES OF 24-25 JANUARY, 2008 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 the chair, Linwood Smith, at 8:30 a.m. on Thursday, January 24, 2008. The following members were present for all or part of the meeting.

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Michael J. Thibodeaux	Employer	Consultant, National Association of Homebuilders
Thomas L. Kavicky	Employee	Safety Director, Asst. to the President Chicago Regional Council of Carpenters
Daniel D. Zarletti	Employer	Vice President , Safety, Health & Environment, Kenny Construction Company
Matt Gillen	Federal Designee	Coordinator, CDC-NIOSH, Office of the Director
Thomas R. Shanahan	Employer	Assoc. Executive Director, National Roofing Contractors Association
Stew Burkhammer, PE, CSP	DOL-OSHA	Director, Office of Construction Services, Directorate of Construction
Steven F. Witt	DOL-OSHA	Director, Directorate of Construction
Linwood O. Smith	Employer	Vice President, Risk Management & Safety, T.A. Loving Company
Dan Murphy	Employer	Vice President of construction services, Zurich North America
Thomas A. Broderick	Labor	Executive Director, Construction Safety Council
Elizabeth Arioto	Public	Elizabeth Arioto Safety & Health Consulting Services
Frank L. Migliaccio, Jr.	Employee	Executive Director, Safety & Health International Assoc. of Bridge, Structural, Ornamental & Reinforcing

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
		Ironworkers
Dale David Haggerty	Employee	Director, National Construction Agreements, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
Emmett M. Russell	Employee	Director, Department of Safety and Health, International Union of Operating Engineers
Robert Krull	Employee	Director of safety and health, United Union of Roofers, Waterproofers and Allied Workers
Kevin D. Beauregard	State	Assistant deputy commissioner, Division of Occupational Safety and Health, North Carolina Department of Labor
Steven D. Hawkins	State	Asst. Administrator, TN Occupational Safety and Health Administration
ACCSH Counsel Sarah Shortall		Office of the Solicitor, U.S. Dept. of Labor

Approximately 40 members of the public were in attendance at various times, as were a number of DOL/OSHA representatives.

Linwood Smith, ACCSH Chairman, called the meeting to order at 8:30, welcomed the attendees and asked the members to introduce themselves. He discussed the mission statement which requires the Secretary of Labor to seek the advice of this committee on standards that might be promulgated. **The minutes of the last meeting, held in October 2006 were approved.**

Robert Krull commented that the minutes of the December 2005 meeting have not been approved. Mr. Smith responded that he will make them available later in the meeting for approval.

Steven F. Witt, Director, Directorate of Construction, welcomed the new members of the committee and thanked the audience for their participation. He believes this will be a productive meeting. He emphasized that the Assistant Secretary intends to make ACCSH an open process.

Sarah Shortall, ACCSH Counsel commented that everything will be in the public record.

Venetta Chatmon, Office of Communications, US Department of Labor, described procedures for members travel arrangements.

The minutes from the 2005 meeting were distributed, discussed and approved.

Frank Migliaccio Jr. inquired why there was no meeting in 2007, and what the process was for getting recommendations for new members.

Linwood Smith replied that getting new members selected took longer than anticipated; the next meeting will be timelier, it is tentatively scheduled for April or May, 2008.

Assistant Secretary Edwin G. Foulke, Jr. welcomed the seven new members to ACCSH's 15 member board. He praised their background and expertise, and stressed the importance of their participation. The Assistant Secretary thanked Chairman Linwood Smith for his leadership and welcomed back the returning members. He underscored the importance of committee members as the voice of their stakeholders and as advisors to a Cabinet Secretary.

Assistant Secretary Foulke praised the contributions of **Stew Burkhammer** on the occasion of his retirement. Mr. Burkhammer has a decade of service on ACCSH and five years as Director of the Office of Construction Services.

Assistant Secretary Foulke discussed the emergency response at the Minneapolis interstate bridge collapse and the California wildfires and indicated that later in the meeting there will be more detail regarding these and other emergency responses.

The Assistant Secretary addressed Pandemic Flu guidelines; OSHA is cooperating with many other federal and state agencies on a response plan. There is no flu pandemic currently but statistically we are overdue and must prepare. OSHA has developed two guidance documents for Pandemic flu, one for general industry which explains how influenza spreads, how employers can maintain operations, how to protect employees, etc, and another which addresses employees working in the health care industry. These and other similar documents are available online, and every employer is encouraged to embrace the information in these documents as they are designed to help save lives and keep American vital and strong.

Regarding Cranes and Derricks, the Assistant Secretary indicated that following the decision of the Crane and Derrick Negotiated Rulemaking Advisory Committee (C-DAC) OSHA is working to complete the requirements for publishing a Notice of Proposed Rulemaking (NPRM) and is committed to moving this project forward.

On November 14, 2007 OSHA published a final rule requiring employers to provide personal protective equipment (PPE) at no cost to employees except under specific circumstances. The time for appeals has passed and there were no appeals. OSHA estimates that the rule will result in over 21,000 fewer injuries this year. This significant reduction in injuries is expected to save society over \$200 million per year in addition to reduced pain and suffering for employees.

In November 2007 OSHA proposed a rule for Confined Spaces in Construction and General Working Conditions in Shipyards. The comment period has been extended to 28 February 2008. Noah Connell will address this in more detail later in the meeting.

As part of its commitment to focus enforcement efforts on the most hazardous working conditions OSHA will continue its trenching initiative. In the last four years of collecting data (2003-2006) trench fatalities have decreased about 50% (59 in 2003, 29 in 2006).

OSHA is developing plans to raise national awareness of the need for employers to provide appropriate safety and health training and protective equipment for the thousands of teenagers entering our nation's workforce every year. Even though they are teenagers and short term employees they should be fully trained before they are put on the job.

The Assistant Secretary said that 64 construction companies have attained Voluntary Protection Programs (VPP) status. OSHA Challenge provides a roadmap for a company to gain VPP status in 3 incremental stages.

The Assistant Secretary concluded his remarks by saying that he is pleased with the progress of OSHA's cooperative programs, and he hopes that the good news of success from the participants will encourage others to partner with OSHA.

Frank L. Migliaccio, Jr. commented to the Assistant Secretary that he understands changes are being made in the way instructors are selected and that instructors with college training are being sought. He feels that current master instructors work in the field and their practical experience is valuable compared to formal training from someone without field experience.

Steven F. Witt indicated that Dr. Payne might be available later in the meeting to comment on instructor selection.

Robert J. Krul asked when the owner mandates safety equipment must be worn, who is responsible to provide protective footwear? The Assistant Secretary replied that it is a complicated issue, that OSHA tried to get the right balance and that he anticipates requests for letters of interpretation on these issues.

Amanda Edens, Deputy Director, Directorate of Standards and Guidance presented an overview of DSG standards activities and recent and upcoming DSG guidance projects. The current agenda was published 10 December 2007 and is available at www.reginfo.gov. Her presentation is summarized below:

The PPE payment final was published November 2007, and requires employers to pay for most PPE. Exceptions are uniforms, items worn to keep clean, safety-toe wear, prescription safety eyewear, ordinary clothing, and weather related gear and logging boots.

Updating Consensus Standards is a multi-phase process with various rulemaking strategies. Overall policy direction and first direct final rule published November 2004 Published PPE proposed rule 17 May 2007, public hearing held 4 December 2007.

Subpart S – Electrical Installation Requirements for General Industry final rule published 14 February 2007 became effective 13 August 2007. A technical issue exists regarding ground-fault interrupters and temporary wiring. A technical amendment is anticipated to address the issue.

Subpart S – Ground-Fault Circuit Interrupter Requirements (GFCI) requires the use of GFCI's for temporary wiring installations used during maintenance, remodeling, or repair of buildings, structures, or equipment do during similar construction-like activities.

Subpart V – Electrical Power Generation, Transmission and Distribution updates subpart V of Part 1926 covering construction and Section 1910.269 covering maintenance in general industry. Proposed rule published 15 June 2005, public hearing held March 2006, estimate final publication April 2008. Issues include protection from electrical arcs, minimum approach distances, fall protection and training.

Hazard Communication – considering adopting the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The ANPR was published 9 December 2006, the comment period closed 13 November 2006 and the peer review of economic analysis was completed in November 2007. Other OSHA standards may be affected. Changing definitions can have inadvertent effect on other standards.

Crystalline Silica – Different PELs for general industry (1971 TLV) and construction (1962TLV). Have completed SBREFA process, next step is scientific peer review of draft health effects analysis and risk assessment. OMB passed new peer review guidelines which required a step back to get in compliance.

Beryllium – PEL adopted 1971, published an RFI in 2002 and two safety and Health Information Bulletins in 1999 and 2002. Initiated SBREFA in September 2007 and will issue the panel report in January 2008. Shortall indicated the report was signed this week.

Standards Improvement Process Phase III – ANPR published December 2006, the proposal is under development. Potential construction issues include posting requirements for the hazard assessment for PPE standard, updating the definition of potable water, clarifying triggers for medical surveillance and exposure monitoring for the lead standard, and removing redundant training requirements.

Hearing Conservation in Construction – ANPR published August 2002, stakeholder meetings were held March and July 2004. Sites visits and research ongoing to collect and evaluate current practices and programs.

Emergency Response and Preparedness – RFI last September as an outgrowth of 9-11 and the changing environment of emergency response requirements we are assessing the applicability of current standards and guidance to things that are purposely done or things like panflu. Request for Information published November 2007. Record closed 10 December 2007.

Completed Guidance Projects include motor vehicle safety, combustible dust, fire services manual, ergonomics, indoor air, glutaraldehyde, perchloroethylene, abrasive blasting in shipyards, marine hanging staging and hurricane quick cards.

Pandemic Flu Guidance – Joint DOL/HHS document released 6 February 2007 and available at pandemicflu.gov and osha.gov.

Guidance projects in development include hazards of scrap metal recycling, hazard communication/GHS, PPE for emergency response, controls for silica exposure in construction, ergonomics in shipyards, fireworks video and working safely with Portland cement.

John Steelneck, project officer on OSHA's respirator standard, reported that the Abbreviated Bitrex® Qualitative Fit-Testing Protocol has gone through the system and was published in December 2007 with public comments due 25 February 2008. At the October 2006 meeting Mr Steelneck also reported that the protocol for the PortaCount fit testing machine had just been received and would be presented at this meeting. TSI Inc. has submitted their peer reviewed article to start their review system for an abbreviated set of two new fit test protocols for use with the PortaCount. This was published by Dr. Roy T. McCay, chair of the ANSI Z8810 fit testing subcommittee. There are two protocols, one of which does the exact same thing as OSHA but cuts the time in half to 30 seconds. The second has 5 exercises; they eliminated two exercises, deep breathing and the first normal breathing, and did other things to make it a tougher test. They raised the pass-fail criteria for the second protocol from 100 to 200 for half masks, and from 500 to 1000 for full face pieces. This was done to eliminate false positives. Protocol number two exceeds all the ANSI values. Protocol number one has a problem in that the sensitivity was only 91% vice the required 95%. This means that one person might pass that would fail with the 60 second OSHA test. That is a problem for OSHA, but it will be put out for public comments. After public comments it will go through the process and be published in the federal register sometime later this year.

Dan Murphy – What is happening with hearing conservation?

Amanda Edens – We are surveying sites with programs in place to determine if they are effective and to baseline what is out there to help assess what it would take to establish a standard.

Dan Murphy – Please contact me if I can help. Is there any timetable?

Amanda Edens – Not at this time. At least twice a year we look at the different projects we have on the agenda and try to make some management choices about what the next step will be. The new agenda will be out in April or May. This will be considered along with all other issues.

Kevin D. Beauregard – Can you explain what went into the decision on PPE regarding logging boots?

Amanda Edens – There were already some issues in the logging standard and it was an attempt to make two different standards consistent.

Sarah Shortall – In the 1994 federal register notice regarding logging there is an extensive explanation regarding why employers are not required to pay for logging boots.

Frank Migliaccio, Jr. – Are the Portland cement cards out yet?

Amanda Edens – No they are not. They are in process of being cleared and will be released soon.

Frank Migliaccio, Jr. – Is there any consideration for taking PPE standards for Construction, General Industry and Maritime and putting it all together as one?

Sarah Shortall – This is one of a number of standards being worked on. This is the first phase. It was decided to take it a step at a time with the idea that comments from the December 4th hearing would give us information we would need to address construction. There were representatives from the construction industry who came to testify.

Emmett Russell – What is the status of silica?

Amanda Edens – Next step is to complete the peer review of the health effects and the risk assessment and we don't really have a timeline beyond that. It is still in the process of moving forward.

Daniel D. Zarletti – Is April 2008 still a good date for Subpart B, and who is the key person to contact?

Amanda Edens – Dave Wallace is the point of contact. He is doing double duty right now so the date may slip a couple of months.

Daniel D. Zarletti – Is there anything in print now other than the draft?

Amanda Edens – No.

Ruth McCully, Director of the Directorate of Science, Technology and Medicine, addressed OSHA's role in the National Response Plan. She stated that actually there is no longer a National Response Plan, it is now the National Response Framework, which was rolled out last Tuesday at the National Press Club.

Prior to 9-11 the country had four response plans, Federal Response Plan, Federal Radiological Emergency Response Plan, a CONPLAN for terrorist events, and a National Contingency Plan for major spills. A lesson learned after 9-11 was that the country needed one response plan. The National Response Plan developed to address this need was signed in 2004 and went into effect in April 2005.

Hurricane Katrina revealed that the National Response Plan was inflexible, too big and too difficult to implement. A framework useful to users at both the federal and local level was needed instead of a large document. The framework was developed with input from hundreds of stakeholders and was released for comment in September 2007. The framework focuses on response rather than Planning, Preparedness and Prevention as the National Response Plan did. The framework lays out how the states will function, how the locals will function and how the federal government will function. It follows the incident command system.

The framework relies on a document called the National Incident Management System which lays out how response is handled at local, state and federal levels. The National Response Framework is always in effect, whereas the National Response Plan had to be activated in response to an event.

The National Response Framework addresses short-term recovery and is intended for senior elected and appointed leaders, such as federal agency heads, state governors, mayors, tribal leaders and city managers. It is about 60 pages and is supplemented by annexes. It defines what a principal federal official is, and for most events it will rely on a federal coordinating official appointed by FEMA. Some things have been eliminated, for example, we no longer have Emergency Response Teams; we now have Incident Management Assist Teams. In other changes, FEMA now has responsibility for mass care in housing and human services, and the Agriculture and Natural Resources annex addresses family separation from pets. A new annex regarding critical infrastructure and key resources details processes to ensure coordination and integration of infrastructure and key resources such as electricity. An incident annex has been added on mass evacuation.

The worker Safety and Health Support Annex was proposed to be elevated to an emergency support function rather than a support annex; however, the interagency community determined it would remain a support annex. In the process of that the Worker Safety and Health annex has been redrafted to address lessons learned from Katrina and to accommodate input from the GAO. The scope clarifies that the annex is structured to provide technical assistance and support for response and recovery workers safety and health, and lays out the types of activities to be found in the support annex. Some highlights are the development of health and safety plans, identifying and assessing safety hazards, conducting exposure monitoring, collecting and managing data, providing technical assistance and support for PPE programs, incident specific response and recovery training, medical surveillance, providing exposure and risk management information, providing technical assistance relative to industrial hygiene, occupational safety and health, engineering and occupational medicine.

The annex lays out that it operates under the leadership of the Assistant Secretary for Occupational Safety and Health and that the Department of Labor/OSHA is the coordinator. At the field level the OSHA Regional Administrator is the regional leader for the annex. It clarifies the division of responsibility between this annex and FEMA. Within the joint field office FEMA is responsible for its own employees as well as staff in FEMA managed facilities. The annex is responsible for the safety and health of all other workers when it is implemented. The coordinator of the annex reports directly to the FCO.

Within two hours of notification of an incident the Assistant Secretary for Occupational Safety and Health will ensure all DOL/OSHA parties are fully informed, alert all coordinating agencies, and send representatives to the National Response Coordinating Center. At the local level the regional administrator will assume control for operation of the annex in the field and staff the regional response coordination center. In rewriting the annex, related actions were grouped. The topics include: Worker Safety and Health Needs Assessment, Monitoring and Observation of safety Hazards, Development of Safety and Health Plans, Safety and Health Assessment, Assistance in Monitoring PPE Programs, Logistics to ensure PPE is purchased and delivered, Data Management, Training and Communications, Just In Time Training for Response and Recovery Workers, and Psychological Resiliency.

The annex lists responsibilities of coordinating agencies and establishes an Interagency Safety and Health Committee. In Katrina this committee initially met daily and continued to meet less frequently over the 12 month response and recovery period.

The annex will become effective 60 days after it is published in the Federal Register.

Daniel D. Zarletti – Is training on the website?

Ruth McCully – I don't know. I will be glad to share with the committee as information becomes available.

Thomas L Kavicky – In Katrina OSHA was criticized for not enforcing standards. How is OSHA going to enforce standards in the future?

Ruth McCully – That is covered in a directive within agencies. Initially the response will be a technical assistance response. The decision to go to an enforcement response will be made at a high level.

Kevin D. Beauregard – The Regional Administrators have been directed to cooperate with states, and we have found that we are able to give a united front. It hasn't been a problem.

Mohammad Ayub, PE, SE, Office Director, Office of Engineering, Directorate of Construction gave a presentation on the National Emergency Structural Response Team. The team members are:

Mohammad Ayub, PE, SE

Hsiang-Jen Yen, PE, PhD

Emil Golias, CSP

Mitchel Konca

Rich Levinus

Chester Razor

The team assists region and area offices in major collapses, provides civil and structural engineering assistance to OSHA field personnel, prepares investigation reports with findings and causal determinations, and appears as expert witnesses. The team is only active when the

Assistant Secretary activates the National Emergency Plan. By statute the team has six months to complete investigations. Citations are based on whether or not standards were violated, not what caused the collapse. Mr. Ayub stated that 15 to 20 percent of collapses result from a design flaw.

Mr. Ayub briefly described the following investigations:

Jacksonville, FL, Garage Collapse December 6, 2007 – The findings are not yet concluded but the collapse appears to have resulted from a design flaw and inadequate shoring.

Atlantic City, NJ, Tropicana Garage Collapse – Four workers were killed and about \$101 million in damage resulted from this collapse. Inadequate shoring and a design flaw resulted in slab, beam and column failure.

U.S. Highway 90 across St Louis Bay, Pass Christian, MS, 14 June 2007 - Two workers were killed when formwork collapsed because the formwork had not been designed for the pressure of fluid concrete. The rate of pouring was too high, and retardant had been added to the concrete which increased the setting time to 3 to 4 hours.

Collapse of Formwork, 334 Peachtree Street, Atlanta, GA, 7 June 2007 – An elevator shaft was being poured; the elevator door had been made taller resulting in less support for a beam which failed.

Fatal excavation collapse at Red hook, St. Thomas, U.S. Virgin Islands, 22 August 2006 – A manmade landslide resulted from the contractor cutting the angle too steep.

Roof truss collapse in Franklin NJ, 13 July 2007 – The failure resulted from improperly braced trusses. Mr. Ayub stressed that more and more he is finding that roof trusses over 90 feet are a problem. Most are being installed by small companies without engineering expertise. OSHA, the Truss Plate Institute, and leading designers are working on a seminar to cover bracing. He emphasized that long wooden trusses must be braced properly.

Roof Collapse of the Waterview Office Tower, Rosslyn, VA, 8 December 2006 – The Inspector thought the shoring plan for floors below also applied to the floor that collapsed. The shoring contractor was never asked to come up with a plan for the level that collapsed.

Matt Gillen – Would be interested in hearing if you come up with a good engineering research topic. In cases where you find new techniques, etc, result in failure it would be good to hear about that.

Mohammad Ayub replied that most collapses are not the result of big mistakes, but are caused by simple mistakes. He emphasized that engineering assistance must be sought when necessary.

Thomas L Kavicky – Couldn't OSHA develop a Safety and Health document to address that?

Mr. Ayub responded that it already exists, but is by the Truss Plate Institute. He said it is a good document which shows all the bracing needed, and sets forth that trusses longer than 90 feet require professional engineering assistance.

MN I-35 Bridge Collapse on 1 August 2007 and OSHA's role – Jeff Isakson, Director MN OSHA, Area director Mark Hysell began the presentation with a short video showing the magnitude of the event and the range of hazards involved. The collapse occurred at 6:00 pm during the rush hour and resulted in 13 fatalities. The initial response included 40 pieces of fire equipment and about 850 police officers. Shortly after the collapse communication was established between MN OSHA and the Federal OSHA Area Director. On 2 August the OSHA AD and AAD arrived, were briefed and given an overview of the site. The situation at that time was controlled chaos. Initial contact was established with MN DOT safety, a site survey was conducted. Traffic outside the controlled area was intense. MN OSHA provided site coverage focusing on compliance assistance. Many of their personnel were Katrina/9-11 trained. Late on 2 August MN and Federal OSHA directors met to develop plans for a unified response. Key personnel were identified and daily meetings were identified. The focus was on control of site hazards. Discussions began on Safety and Health Plans for the site. On 3 August Federal OSHA subject matter experts arrived, the site plan was approved. The situation was chaotic, turf wars were emerging. NTSB was in charge of the collapse investigation, and was in direct conflict with body removal efforts. The FBI and ATF were pursuing criminal investigations; the Sherriff had control of the river and body recovery in the river. The situation was further complicated by reluctance to transition from rescue to recovery.

Within a few days a meeting was held to discuss site leadership roles and responsibilities. OSHA set out clear expectations and a major change in approach was instituted. Uniform site orientation training was established and required for all workers on the site. A careful balance between cooperation and enforcement was maintained. Red Zone enforcement was established and grid system maps developed. An interventions database was created. Daily activity sheets were prepared; every job had to have a permit.

85% of the workers received the OSHA 10 hour course, 624 employees received site orientation training, and 962 employees received site specific training. 4,549 hazards were identified. The total bridge removal required 9 weeks.

Elizabeth Arioto – How long did it take to establish orientation?

Jeff Isakson – A couple of days for construction, four to five days to really pull it together.

Elizabeth Arioto – Can you reduce that? **Answer** – Emotions and the transition from rescue to recovery are part of the problem. And it took time to assess the hazards. One of the problems was to find a site for a trailer. **Elizabeth Arioto** – Are there any plans to have contractors pre-approved? **Answer** – Each disaster is different, with different training requirements.

Frank Migliaccio, Jr. – Did anyone come to the site already with the 10 hour training?

Jeff Isakson – Quite a number.

Tom Broderick – Did you learn anything or have any insight into how we can get traction so there will be a cadre of trained workers?

Jeff Isakson – It is critical that people understand how it is supposed to work so that we can work within that framework. Region 5 Federal OSHA is working on what level of training people need. We need to be able to explain the need to the public, communications is the key.

Dan Murphy – I live there, it was a phenomenal response, thank you!

Thomas A. Broderick – Any lessons learned?

Jeff Isakson – Remember you are dealing with people; many are in their positions and jobs because of strong personalities. The bottom line is to prevent more injuries.

Linwood Smith – Thanks for the presentation.

Noah Connell, DOC Deputy Director gave a standards update. Deputy Director Connell said it has been a pleasure working with Stu Burkhammer, that he has made maximum use and battered Mr. Burkhammer with questions over the years. He went on to address two major rulemakings: Confined Space and Cranes and Derricks.

The confined space comment period has been extended to 28 February, we will then hold any required hearings, and then it will be presented to the bosses. The general philosophy is that we tried to make it user friendly for small businesses without safety people on staff. Employees can work through it step by step. About 90% of what is in confined spaces is in general industry.

Cranes and Derricks – This is a massive effort, had to write history and justification for every provision. It will go through DOL reviews and then OMB will have 90 days to review.

Frank Migliaccio, Jr. – This won't happen until the next administration.

Noah Connell – The target is at the end of 2008, but we probably can't get there from here. This is the number one priority in the office of Construction Standards. The process of building structures with cranes is very complex.

Frank Migliaccio, Jr. – The date always changes. Building is faster than rulemaking. A lot of time was put into it and we expected it to be faster.

Noah Connell – A committee draft in 11 months is extraordinary. Our job involves economic analysis, and we have to explain every provision. We take great pains to be correct. We work with other groups and committees; we go to construction people for information. We are not doing this in a vacuum; it has been and continues to be our number one priority.

Paula White, Director of Cooperative and State Programs gave an update on the Alliance Program, Consultation Program, VPP Partnership Program and OSHA/state plans.

The Alliance Program seeks ways to work together to maximize resources. The focus is on training, outreach, education, and specific kinds of product development. The program presents opportunities for partners and the private sector to offer training to OSHA staff. She related success stories and business case studies with Abbott Labs, Dow and others that illustrated the importance of Safety and Health to a successful workplace. She described the information on the OSHA website regarding the program. There are now 13 national construction alliances, and Fall Protection and Design for Safety is going full tilt. A 10-hour course focused on engineers designing a building is in development. A new cleaning industries page has just been posted, and work is underway for a new e-tool for powered industrial trucks, and the hospital e-tool is being updated.

The Consultation Program – OSHA funds programs in every state that provide assistance to small employers, focusing on those with less than 250 employees. They offer training assistance and training in recognition of hazards and the implementation of effective safety and health management systems.

Safety and Health Achievement Recognition Program (SHARP) – SHARP recognizes that small employers may need assistance in Safety and Health programs. Assistance is offered through state consultation programs. A new look and feel has been implemented on the small business webpage. Materials for Hispanic and non-English speaking employees are included, as is information with a family focus.

Voluntary Protective Program – VPP offers opportunities for leveraging safety beyond individual sites. OSHA is seeing a resource savings both for OSHA and the partners. The Postal Service is an enthusiastic participant, increasing from 17 sites in 2005 to 104 in 2008. Efforts are underway to figure out how the concept of Corporate VPP can work for construction entities. The VPP demo for construction hasn't taken off as expected, it now has 17 participants.

OSHA Challenge – The OSHA Challenge program offers a roadmap to VPP and to improved Safety and Health performance. There are two tracks, General Industry and Construction. A benefit of this program is that it allows OSHA to collect data from participating sites. And looking at the data tells us that the average participant is improving the total case incident rate and days away rate by close to 40% per year. Studies indicate that there is a link between Safety and Health and competitiveness.

Director White commented that as Safety and Health has improved in the country Federal Employees have often been left behind. She is now excited by emerging interest in the government. There are now 150 VPP sites in 8 agencies, and many OSHA activities are moving toward VPP. DOD has an extremely active program.

State Plan Partners – 22 states have full state plans. OSHA is about to launch new pages on the OSHA website that will have charts indicating how the various states address issues.

Robert Krull – How do you ensure all sites of large companies are in compliance?

Director White – For VPP demonstration applications are accepted in a specific geographic area. We look not just at commitment, but that the corporation can provide oversight. If there is indication of failure of oversight we will have to go back. We have limited resources. We want to encourage people to do the right thing and do the right thing even better.

Steve Hawkins – Paula has announced her retirement.

Linwood Smith – Thanked her for her service and wished her well in retirement.

Public Comment – Scott P. Schneider, Director of Occupational Safety and Health for the Laborers' Health and Safety Fund of North America announced that next month at the national hearing conservation association meeting in Portland it will be announced that his organization will be working with NIOSH and the national hearing conservation association to develop a special award to be given to the construction company that has an excellent hearing conservation and hearing loss program. The first award will be a year from this February. While he was on the committee a couple of years ago he harped on making work group reports more accessible. Reports are buried in the OSHA docket and hard to find. A couple of months ago all he could find were put on the LCOSH website. If you go to the electronic library for construction safety and health there is a page where you can easily access the work group reports.

Public Comment – Michael McCann, Director of Safety, Center for Construction Research and Training. A number of people have asked why the language regarding employee representatives in the announcement of this meeting was changed. **Shortall** – The Construction Safety Act states what type of membership has to be represented here. The change in the notice was intended to track the exact language in section 1912.3 of OSHA regulations; it was not representing any type of change in OSHA's position.

Residential Fall Protection Workgroup Report – Mike Thibodeaux, co-chair of the work group, summarized prior presentations from other meetings regarding roof and truss operations, use of scaffolds and ladders, fall arrest systems, and use of the wall walker system. A discussion was opened concerning the definition of residential construction, and how residential construction is characterized by wood framing, wood floor joists and wood roof structures. The workgroup wants the committee to consider recommending that OSHA redefine residential construction to include concrete and cinder block construction as well as metal stud framing when used in residential construction.

The workgroup received a presentation from LeBlanc Construction, WRECO Safety and Maracay Homes on fall protection in residential construction that included use of all conventional fall protection methods, a truss bar system and retracting lifelines. A discussion followed regarding the ability of roof trusses to support fall protection without sheathing. The system in question is attached to four trusses rather than one truss, training in this method requires about 8 hours. The cost is about \$1200 to \$1500 for the truss bar, self retracting lifelines are about \$500. The presentation also included roof and window anchors that cost \$20 to \$30. The truss bar and lifelines are reusable. The cost to implement is estimated to be about \$250 per home. This proposal is contradictory to the National Truss Manufacturing Association

information relative to trusses that are not sheathed, they are going to furnish supporting data and the work group will look at this and it may be an appropriate presentation at the next ACCSH meeting. The discussion included concerns about small contractors finding the cost prohibitive, and that in some parts of the country roof trusses are built on site one at a time, which might make the truss bar ineffective.

The workgroup received a presentation from the National Frame Building Association. The NFBA would like their industry to be included under the residential fall protection compliance guidelines, and pointed out the similarities between residential construction and their industry. They will make the presentation to the full committee later in the meeting.

The workgroup discussed retaining, modifying or eliminating interim standard Std 3.01A. The work group feels that it creates confusion in that it authorizes alternative fall protection measures, but doesn't have the limitations Subpart M does. That allows some to not follow Subpart M even if it could be feasible and is not a create hazard. The majority of state plan states think the interim standard should be rescinded, because most don't use it. The National Roofing Contractors oppose elimination because it allows them some flexibility.

Conference Call

At this point the work group report was interrupted for a scheduled conference call with **Dr. Henry Payne, Director of the OSAH Training Institute**. **Dr. Payne** discussed a number of personnel changes that have taken place at the institute. He indicated that the instructor positions and many staff positions went through a competitive process to determine if it was cost effective to outsource or keep them in house, and that the results were that the positions remained Federal Employees. Linwood Smith asked if there were any changes to the OSHA 500 instructors. **Dr Payne** explained that OTI is looking to see what changes may need to be made. A number of people now enrolling in trainer courses are struggling with not having sufficient background. Many switch and go through the standards course. In the past we have allowed the 30-hour course to substitute for the Standards course. Those students are having problems and are backing out of the Trainer course. OTI is looking into eliminating the 30-hour substitution and requiring the Standards course or a degree in a Safety and Health field, Certified Safety Professionals, an Occupational Health Technologist, Construction Safety Technician, or a professional engineer with course work in OSHA Standards.

Frank Migliaccio, Jr. asked about Master Instructors who have gone through the required training, taught courses, they have been evaluated with excellent results. If there are going to be changes why didn't OTI come to the sub-committee?

Dr Payne replied that OTI has been struggling with the issue and haven't come to a resolution.

Frank Migliaccio, Jr. asked if OTI would be willing to bring their ideas to the sub-committee and Dr. Payne agreed to do so.

Frank Migliaccio, Jr. asked about expiration dates on 10 and 30-hour cards.

Dr. Payne replied that OTI is not proposing expiration dates for these cards. Trainer cards have an expiration date, but not 10 and 30-hour cards.

Frank Migliaccio moved that the ACCSH recommend to the Assistant Secretary that any proposed changes to OTI current parameters be brought before the sub-committee charged with the OTI matter and any of their recommendations then be brought to the full committee for recommendations to the Assistant Secretary.

Kevin Beauregard suggested modifying the option to limit it to construction related issues, the amendment was accepted. The motion was seconded and approved.

Return to the report of the Residential Fall Protection Workgroup

Michael Thibodeaux moved that ACCSH recommend to OSHA to include concrete block, cinder block, metal stud framing and trusses in the definition of residential construction, but only for residential home building. **Dan Murphy** proposed that poured in place concrete for basement walls be included in the motion. The amendment was accepted and the motion passed.

A discussion of workgroup organization and membership followed.

Diversity – the workgroup consensus is that it has fulfilled its charge. A suggestion was made to split the group with a Diversity group continuing, and a second group addressing women in construction. **Elizabeth Arioto** and **Tom Kavicky** agreed to participate in the Women in Construction group.

Focused Inspection Initiative – After a discussion it was decided that the committee would recommend that there is no need to continue this workgroup.

Noise – Continues with **Dan Murphy** as employer rep and **Frank Migliaccio** as employee representative.

OTI – Continues with **Frank Migliaccio** and **Daniel Zarletti** as chair and co-chair

Residential Fall – Continues, **Emmett Russell** will chair, **Frank Migliaccio** wants to continue as a member.

Silica – Continues. Will be available to work with OSHA to develop their respiratory package.

Training Certification – No need to continue.

Trenching – Recommended to continue, will work on the trenching initiative for another year. **David Haggerty** is the Employer Representative; **Emmet Russell** is the Employee Representative, and **Steve Hawkins**.

Linwood Smith commented that these recommendations will be made and that the agency will determine and report back to ACCSH the work group organization and membership.

Emmett Russell – Based on the presentation this morning about structural failures, what are some of the options we can present to empower people to prevent failures.

Kevin Beauregard – recommends that the purpose of the workgroups be outlined, so that workgroups know what they are supposed to do, and when to disband.

Linwood Smith – We can ask the Department Of Labor Director of Construction office to look at our list and see if there is a charge already in place, to determine if the purpose still exists, and if there is an additional charge, or if we should disband some workgroups.

Emmett Russell – If a workgroup addressing structural failure is established, Mr. Ayub should be a part of it, that he has spoken with Mr. Ayub and that he was willing to participate.

Linwood Smith reiterated that the final workgroup assignments will be determined after the final decisions about which workgroups continue.

The meeting adjourned for the day and resumed at 8:30 25 January 2007.

Tom Knight, President of the National Frame Building Association gave a presentation showing details of post frame construction and its development. Originally the method of choice for barns and farm buildings, it has moved off the farm and there is an increased use in a variety of applications. There are some 8,000 contractors with about 35,000 employees in the industry. The industry is virtually free of injuries from falls.

NBFA seeks to have the committee recommend that post-frame construction come under the "residential fall protection" guidelines, and seeks consistency in the application of fall protection standards for the post-frame construction industry and to have the existing residential fall protection guidelines apply to post-frame buildings that are 16 feet or less in height, or 4,000 sq. ft. or less, or that feature a residential roof system.

A brief discussion followed which clarified that NBFA intended that any one of the three criteria be sufficient for the residential guidelines to apply.

Thomas L. Kavicky – In the directive it talks about a small attachment, we are now talking about a whole building. I'm not ready to make a recommendation.

Daniel D. Zaraletti – The inconsistencies should be worked out between area offices. There are products to provide anchor points.

Tom Knight – We just saw a very enlightening presentation about that; it is something we can explore and share with the industry.

Robert Krull – I understand the problem, it is similar to that between residential and light commercial. We would be making exceptions to fall criteria that could be disruptive.

Steven D. Hawkins – commented that the proposal is overly broad and cannot be justified. He cannot support it.

Linwood Smith – This should go back to the subcommittee for consideration.

Dave Carney, General Manager of Stonemith Patented Systems, Inc. gave a presentation regarding safety and accidents in the masonry industry. He pointed out that construction sites are dangerous places and that over 35% of construction fatalities result from falls. He discussed injuries resulting from laying block above shoulder height, and safety issues associated with rebar and splice overlap, repetitive motion and lifting. He pointed out that the masonry industry is dominated by small businesses employing 20 or less, that work practices are usually learned on the job. Leadership cannot ignore safety because the workers learn from the boss. He discussed the need to change the culture and the difficulties of doing so. Innovation must be "top down", must overcome "we've always done it this way", and must incentivize small companies to participate in safety enhancing products/processes.

Dan Murphy – Does company size (10 or less, 10-20) affect makeup? Are there more Hispanics in the smaller companies?

Dave Carney – A lot of the small companies are that way.

Daniel D. Zeraletti – I didn't hear you ask the committee to do anything.

Dave Carney – Musculoskeletal disorders and cumulative trauma get short shifted. As you do funded research and safety training keep the emphasis on things the trades face every day.

Thomas L. Kavicky – How would you build a wall without these kinds of tasks?

Dave Carney – There are a number of ways to use delivery systems and so on.

Steven D. Hawkins – Are we being asked to consider ergonomics for the masonry trades?

Dave Carney – That would be a good thing. The advice this committee should give to the Assistant Secretary is that proven ergonomic factors can reduce exposure to lost time injuries and illnesses, that those be a requirement in design, construction and planning and that there be some established entrance requirement, perhaps in licensing or an OSHA training course that they have to go through to be a qualified contractor/owner.

Robert Biersmer and John Steelnack gave a presentation regarding Fit Test protocols. The Bitrex protocol presented to the committee at the October 2006 meeting has been out for public comment and comments are due by 25 February 2008. Now PortaCount has requested that two new protocols be considered. They have done a peer reviewed industrial hygiene article on three new protocols. They have only requested that two of these be considered. The second one meets

or exceeds ANSI criteria, the first has a problem. For sensitivity it is 91%, the passing value is 95%. That raises a question for OSHA and the question will be included as part of the notice seeking public comment.

The problem may be the result of a small number of samples. Historically there have been thousands of tests, this protocol was tested with a minimum number of samples, and could have failed as the result of a small number, perhaps one, of false positives.

We are seeking your comments, and after you tell us to go ahead they will be run through the clearance process in the Department of Labor. Then OMB would look at it before it is published as a Notice of Proposed Rulemaking.

Robert Krull – The majority of this committee cannot make the decision on this without professional help. The issue is does it work at least as well as the current OSHA accepted quantitative fit test protocols. There are two serious problems, the shortened testing period, and failure of the sensitivity test. Suggest committee consult with experts and at the next meeting make a better decision.

Kevin D. Beauregard – Concur, I have concerns and there may be an issue with shortening the time.

Dale David Haggerty – I also have a concern about shortening the time period. I also am concerned about the small size of the group they tested.

Thomas L. Kavicky – I agree, would feel much more confident with a recommendation coming from NIOSH.

Linwood Smith – We can have this as an agenda item at the next meeting, in the future we would like to have more time to discuss issues with our constituents and stakeholders.

John Steelnack indicated that he will be available to answer any questions the committee members may have as they consider the protocols, and that he will make copies of the study available to the members.

A motion was made, seconded and approved to table the PortaCount protocols until the next ACCSH meeting.

The meeting adjourned at 11:44 am

Exhibits from the meeting:

OSHA-2007-0082-0002 Approved minutes from Oct. 11, 2006, ACCSH meeting

OSHA-2007-0082-0003 Approved minutes from Dec. 8, 2005, ACCSH meeting

OSHA-2007-0082-0004 Hard copy of OSHA’s Standards and Guidance update PowerPoint presentation by Amanda Edens

OSHA-2007-0082-0005 Memo to ACCSH from Dorothy Dougherty, Director of OSHA DSG, on draft PortaCount proposed rule

OSHA-2007-0082-0006 OSHA draft NPRM on PortaCount quantitative respirator fit-testing protocols

OSHA-2007-0082-0006.1 McKay and Bradley, “Evaluation of Three Fit Test Protocols FR Use with the TSI PortaCount”, *Journal of the International Society for Respiratory Protection*, vol. 22, Fall/Winter 2005 presented to ACCSH by PortaCount project officer Tom Steelnack

OSHA-2007-0082-0007 National Response Framework and Annex January 2008 presented to ACCSH by Ruth McCully, Director of DSTM

OSHA-2007-0082-0008 National Response Framework Fact Sheet presented to ACCSH by Ruth McCully, Director of DSTM

OSHA-2007-0082-0009 National Response Framework Press Release Jan. 22, 2008, presented to ACCSH by Ruth McCully, Director of DSTM

OSHA-2007-0082-0010 Hard copy of OSHA’s Structural Response Plan PowerPoint presentation by Mohammad Ayub

OSHA-2007-0082-0011 Hard copy of Minnesota OSHA’s PowerPoint presentation by Jeff Isakson

OSHA-2007-0082-0012 Hard copy of OSHA’s Construction Cooperative Programs PowerPoint presentation by Paula White

OSHA-2007-0082-0013 ACCSH Residential Fall Protection Work Group report from Jan. 23, 2008, work group meeting

OSHA-2007-0082-0014 Fall Protection for the Post-Frame Construction Industry presentation by Tom Knight, National Frame Building Association

OSHA-2007-0082-0014.1 Hard copy of National Frame Building Association PowerPoint presentation by Tom Knight

OSHA-2007-0082-0015 Hard copy of Masonry Safety PowerPoint presentation by Dave Carney, Stonemith Patented Systems, Inc.