

Advisory Committee on Construction Safety and Health (ACCSH)

Minutes November 30- December 1, 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 Wednesday, November 30, 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	OSH Federal-State Coordinator, Kentucky Labor Cabinet, Department of Workplace Standards
Steven D. Hawkins	State Representative	Administrator, Tennessee Occupational Safety and Health Administration
Letitia Davis	Public Representative	Director, Occupational Health Surveillance Program, Massachusetts Department of Public Health
R. Ronald Sokol	Public Representative	President/CEO, Safety Council of Texas City

Palmer Hickman	Employee Representative	Director of Safety Code Training & Curriculum Development, Electrical Training ALLIANCE
Alejandro G. Beltran	Employee Representative	Director of Training, International Union of Painters and Allied Trades
Andrew Peters	Employer Representative	Corporate Senior Vice President, Chief Safety Officer, AECOM
Thomas Marrero, Jr.	Employer Representative	Safety Director, OTS Holdings
Jerry Rivera	Employer Representative	Safety Director, Washington, DC Chapter, National Electrical Contractors Association
Christine Branche	Federal Representative	Principal Associate Director, and Director, Office of Construction Safety and Health, NIOSH
Eric Kampert	Designated Federal Official	Director, Office 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:

David Michaels	Assistant Secretary of Labor, OSHA
Dean McKenzie	Director, Directorate of Construction
Bruce Rolfson	Bloomberg BNA
Rodd Webber	PENTA Building Group
Gloria Gonzalez	Business Insurance Magazine
Dave Reynolds	Inside OSHA Newsletter
Adele Abrams	ASSE
Annette Braam	Directorate of Training and Education
Brian Sturtecky	Directorate of Construction
Scott Schneider	LHSFNA
Travis Parsons	LHSFNA
Mike McCully	Sheet Metal and Air Conditioning Contractors Association
Pete Cheney	Mechanical Contractors Association of America
Bill Hering	Matrix North American Construction
Wayne Creasap	The Association of Union Constructors
Chris Trammell	International Union of Operating Engineers
Matthew Shaw	National Commission for the Certification of Crane Operators
Beth O'Quinn	Specialized Carriers and Rigging Association

George Kennedy	National Utility Contractors Association
Jim Glazer	Elliot Equipment Company
Alden Strealby	AGC of Oregon
Carl Heinlein	American Contractors Insurance Group
Jane Terry	National Safety Council
Eric Fidler	Manitowoc Cranes
Mark Chandler	Kentucky Face Program
Chelsea Vettig	National Association of Home Builders
Nazia Shah	AGC of America
Michele Mihelic	American Wind Energy Association
Wyatt Bradbury	JE Richards Electrical Contractors
Rob Matuga	NAHB
Kirk Grundahl	National Framers Council
Courtney Murray	Directorate of Construction
Gopal Menon	Directorate of Construction
Michael Payne	Directorate of Construction
Rich Bozek	Edison Electric Institute
Chuck Kelly	KCMS
Lolita Oliver	Directorate of Construction
Veneta Chatmon	Directorate of Construction
Mohammed Ayub	Directorate of Construction
Gail Marshall	Directorate of Construction
Wes Wheeler	NECA
Damon Bonneau	Directorate of Construction
Alan Calta	Elliott Equipment Company
David Mullen	International Brotherhood of Electrical Workers
Michael Buchet	Directorate of Construction
Garvin Branch	Directorate of Construction
Jessica Bunting	CPWR
Amanda Eden	Directorate of Technical Support and Emergency Management
Dave Schmidt	Directorate of Technical Support and Emergency Management
Ashley Briefel	Directorate of Construction
Sarah Shortall	Office of the Solicitor
Tony Brown	Brown Consulting Company
Bryant Seymour	Directorate of Construction
Tom Gordon	International Union of Operating Engineers
Neil Tolson	EICA
Donnie Colston	IBEW
Kimberly Darby	OSHA

Opening Remarks

Speaker: Chairman Erich J. (Pete) Stafford

Chairman Stafford called the meeting to order and welcomed the attendees to the second ACCSH meeting of the year. He stated his appreciation of everyone in attendance. Mr. Stafford announced two new committee members; Ron Sokol, representing the public sector, and Andy Peters, an employer representative. After providing a brief overview of the meeting agenda, Mr. Stafford noted the main purpose of the meeting will be to discuss amendments to the crane and derricks standard proposed by OSHA. He then advised those interested in offering public comment to utilize the sign-up sheet. Chairman Stafford concluded his opening remarks by requesting self-introductions of the committee members and the audience.

For a full account of Chairman Stafford's opening remarks, refer to page 7 (Line 3) of the November 30, 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 initiated his announcements with a detailed safety briefing related to procedures in the event of an emergency. After welcoming new appointees and incumbent committee members, Mr. Kampert concluded his remarks by thanking departing committee members Jeremy Bethancourt, Don Pratt, and Roger Erickson for their service.

For a full account of Eric Kampert's announcements, refer to page 14 (Line 22) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Directorate of Construction Update:

Speaker: Mr. Dean McKenzie, Director, Directorate of Construction, OSHA

Mr. McKenzie thanked everyone in attendance and expressed appreciation for the opportunity to continue moving the Directorate of Construction forward. He stated the directorate has a posting out for a new deputy director and hopes to make a selection by Christmas. Mr. McKenzie presented a detailed update on issues pertinent to the directorate's current focus and provided an overview of completed and ongoing projects. He took questions from the committee and provided additional insight regarding items discussed in his presentation.

For a full account of Dean McKenzie's presentation, refer to page 16 (Line 24) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Assistant Secretary's Agency Update and Remarks:

Speaker: Dr. David Michaels, Assistant Secretary of Labor, OSHA

Dr. Michaels stated he wanted to address the committee because it was probably the last time he would be able to do so in his professional capacity as head of OSHA. Dr. Michaels officially welcomed both new members and reflected on the successful work the committee has performed over the last seven years. He commended the committee for its contributions. Dr. Michaels stated the committee was very helpful with the Safety and Health Management Recommendations for Construction guidance document and announced its official release. As associated with the prior mentioned publication, he explained the details of the Safe Workplace and Sound Business Campaign. Dr. Michaels concluded his update by again thanking the committee.

For a full account of Dr. Michael's remarks, refer to page 54 (Line 16) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

National Institute for Occupational Safety and Health (NIOSH) Update:

Speaker: Dr. Christine Branche, Principal Associate Director, and Director, Office of Construction Safety and Health, NIOSH

Dr. Branch began her presentation by stating that it was a pleasure to have the opportunity to update ACCSH on NIOSH activities as they relate to construction. She discussed NIOSH and CPWR web resources as they relate to construction falls. Additionally, she provided status updates on the Guide to Chemical Hazards App and NIOSH Noise Measurement App. Dr. Branche also discussed NIOSH technology partnerships. She examined publications available through NIOSH regarding the ANSI Nail Gun Standard, nanotechnology hazards, heat related illnesses, and climate change. Dr. Branche concluded her presentation by discussing robotics in construction and provided an update on the NORA Construction Sector Council. She then expanded on her presentation by answering questions from the committee.

For a full account of Dr. Branche's presentation, refer to page 61 (Line 13) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Public Comments

Caroline Guglielmo, Public

Ms. Guglielmo introduced herself and provided the committee information regarding her professional background. She thanked the committee for their work. Ms. Guglielmo's comments included her opinion that she would like to see the committee focus on negotiated rulemaking and alliance partnerships.

For a full account of Ms. Guglielmo's comments, refer to page 84 (Line 25) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Beth O’Quinn, Specialized Carriers and Rigging Association

Ms. O’Quinn asked the committee to clarify aspects of the negotiated rulemaking process, specifically regarding the proposed rule for “operator qualification” in the cranes and derricks standard. She explained that her organization was part of a crane operators safety coalition and wished to collectively voice concern on the timing of the proposed rule.

For a full account of Ms. O’Quinn comments, refer to page 87 (Line 11) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Matthew Shaw, National Commission for the Certification of Crane Operators

Mr. Shaw reiterated Ms. O’Quinn’s comments regarding industry concern on the feasibility of completing the rulemaking process for the operator certification requirements in Subpart CC. Chairman Stafford stated the committee has already done their due diligence by providing their recommendations to OSHA regarding this issue.

For a full account of Mr. Shaw’s comments, refer to page 91 (Line 15) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Scott Schneider, Laborers’ Health and Safety Fund of North America

Mr. Schneider began his comments by stating that he previously co-chaired a NACOSH workgroup on excavation safety and intends to make the recommendations derived from that workgroup available to the committee and OSHA for review. He also presented the committee with additional information regarding the NIOSH Noise Measurement App. Mr. Schneider concluded his comments by mentioning how useful and important the Construction Incidents Investigation Engineering Reports webpage is. He stated he would like to see the webpage include video stories looking at the collapses and how they happen.

For a full account of Mr. Schneider’s comments, refer to page 93 (Line 10) of the November 30, 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 84 (Line 25) through page 97 (Line 4) of the November 30, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

The meeting was recessed at 3:00 p.m., to reconvene at 9:00 a.m. the following day, Thursday, December 1, 2016.

Day 2:

December 1, 2016: 9:00 a.m.

Opening Remarks

Speaker: Chairman Erich J. (Pete) Stafford

Chairman Stafford welcomed everyone and directed all in attendance to utilize the sign-up sheet to make public comment at the end of the meeting. He gave a brief summary of the day's agenda, requested self-introductions and concluded his opening remarks by introducing the meeting's first presenter.

For a full account of Chairman Stafford's opening remarks, refer to page 106 (Line 3) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

2016 Fall Stand-Down Update

Speaker: Ms. Jessica Bunting, CPWR

Ms. Bunting presented data analysis of participation in the 2016 Falls Stand-Down, which included a comparison to the 2015 and 2014 campaign data. She stated the data was collected from the OSHA certificate of participation database. Ms. Bunting noted a glitch where OSHA's main website and database collection were down for about two weeks during and after the stand-down which may have affected the overall numbers. Ms. Bunting qualified the Stand-Down as a success by citing statistical data and anecdotal metrics such as participating employer comments, repeat participation and employee feedback. She spoke on the need for additional data collection methods and emphasized the possibility of doing social network analysis in the future. Ms. Bunting concluded her presentation by taking questions from the committee.

For a full account of Ms. Bunting's presentation and ensuing committee discussion, refer to page 112 (Line 19) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

ACCSH Workgroup Discussion

Speaker: Chairman Erich J. (Pete) Stafford

Mr. Stafford began the discussion by stating his intention to have an open, frank discussion about the alignment of ACCSH workgroups. He discussed past structuring of workgroups and gave his opinion on the current state of workgroup effectiveness. Each committee member commented on various workgroup related issues, mainly focusing on which workgroups should continue or be tabled. OSHA staff also took part in the discussion, including Annette Braam, DTE and Dean McKenzie, DOC. Ultimately the committee decided to recommend moving forward with two workgroups, one on training and one on outreach.

Motion: Pete Stafford moved that ACCSH recommend that OSHA establish two working groups, one on training and one on outreach. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 176 (Line 23) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

For a full account of the ACCSH Workgroup Discussion, refer to page 139 (Line 4) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

**Directorate of Technical Support and Emergency Management (DTSEM) Update
Speaker: Ms. Amanda Edens, Director, Directorate of Technical Support and Emergency Management**

Ms. Edens provided the committee with an overview of DTSEM's mission and responsibilities. She cited examples of guidance documents and technical data services the directorate provides. She spoke about new technology, partnerships and alliances, and updated the committee on current and emerging health and safety issues. Ms. Edens also updated the committee on the agency's recent final rule on improved tracking of workplace injuries and illnesses.

For a full account of the Ms. Edens' presentation and ensuing committee discussion, refer to page 183 (Line 22) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Public Comment

Scott Schneider, Laborers' Health and Safety Fund of North America

Mr. Schneider stated there are a lot of things OSHA can and should be doing beyond regulations and enforcement. He expanded on his concern for injuries and illnesses in the construction industry.

For a full account of Mr. Schneider's comments, refer to page 239 (Line 15) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Proposed Rule to Update OSHA's Crane Standard Presentation

**Speakers: Ms. Ashley Briefel, Office of Construction Standards and Guidance, DOC
Mr. Michael Buchet, Office of Construction Standards and Guidance, DOC**

Ms. Briefel provided the committee a progress report on previous crane related rulemaking projects that have already been presented to ACCSH. She then provided a summary of the four current proposed amendments to the crane standard. The committee expressed the desire to discuss and move on each issue proposal separately.

- Ms. Briefel explained in detail the following proposed crane amendment; *Sec 1926.1401 Definitions- “Hoisting”*. The committee discussed the amendment.

Motion: Steven Hawkins moved that ACCSH recommend that OSHA proceed with rulemaking on § 1401 and to clarify, modify, or add an exemption to make clear that the standard would not prohibit employees from using a stationary, suspended load as a walking/working surface. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 278 (Line 10) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

- Ms. Briefel explained in detail the following proposed crane amendment; *Sec 1926.1416 “Operational Aids During Pile Driving”*. The committee discussed the amendment. Mr. Chris Tremel, representing the International Union of Operating Engineers, offered public comment during the discussion.

Motion: Steven Hawkins moved that ACCSH recommend that OSHA proceed with rulemaking on § 1926.1416(d)(3) and (e)(4) and consider the use of load weighting and similar devices as discussed during this meeting. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 297 (Line 3) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

- Ms. Briefel explained in detail the following proposed crane amendment; *Sec 1926.1431 “Hoisting personnel- Boom-attached personnel platforms”*. The committee discussed the amendment.

Motion: Ronald Sokol moved that ACCSH recommend that OSHA proceed with rulemaking using the language in the recommended amendment to § 1431. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 309 (Line 24) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

- Ms. Briefel explained in detail the following proposed crane amendment; *Sec 1926.1437 – “Fall zone requirements for floating and barge-mounted cranes”*. The committee discussed the amendment.

Motion: Christine Branche moved that ACCSH recommend that OSHA proceed with rulemaking using the language as proposed for § 1437. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 317 (Line 21) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

- Mr. Buchet explained in detail the following proposed crane amendments; *Sec 1926.1400 "Scope", 1926.1442 "Railroad roadway maintenance machines"- AAR / OSHA Settlement Agreement*. Mr. Richard Ewell, Office of the Solicitor, was also present during this presentation.

Motion: Steven Hawkins moved that ACCSH recommend that OSHA proceed with proposed rulemaking regarding the railroad lawsuit as presented today. The motion was seconded and passed unanimously.

For a full account of the recommendation, refer to page 328 (Line 23) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

For a full account of Ms. Briefel's and Mr. Buchet's presentation and ensuing committee discussion, refer to page 243 (Line 14) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Public Comments

Sarah Yurasko, Association of American Railroads

Ms. Yurasko thanked OSHA for holding the meeting and assured the committee that the Federal Railroad Administration has extensive safety regulations addressing railway roadway maintenance machines. She stated the Association of American Railroads is pleased with the settlement agreement and assured the committee that they do intend to dismiss the petition after the final rule is published.

For a full account of Ms. Yurasko's comments, refer to page 330 (Line 18) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Travis Parsons, Laborers' Health and Safety Fund of North America

Mr. Parsons commended the committee and stated his desire for ACCSH to consider work zones in their future agenda.

For a full account of Mr. Parson's comments, refer to page 331 (Line 14) of the December 1, 2016 meeting transcript, in Docket No. OSHA-2016-0009 at <http://www.regulations.gov>.

Mr. Stafford wished everyone happy holidays and adjourned the meeting at 3:00 p.m.