

Advisory Committee on Construction Safety and Health (ACCSH)

Minutes for July 17, 2019

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, D.C. 2021000000

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by Chairman Kevin R. Cannon at 12:00 p.m., on Wednesday, July 17, 2019. The following committee members, OSHA staff, and other attendees were present:

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Kevin R. Cannon	Employer Representative	Director, Safety and Health Services, Associated General Contractors of America (AGC)
Fravel E. Combs	Employer Representative	Corporate Manager EH&S, M.A. Mortenson Company
Cindy DePrater	Employer Representative	Senior Vice President, Chief Environmental, Health & Safety Officer, Turner Construction Company
Greg Sizemore	Employer Representative	Vice President of Health, Safety, Environment and Workforce Development, Associated Builders and Contractors (ABC)
Wesley L. Wheeler	Employer Representative	National Director of Safety, National Electrical Contractors Association
Palmer L. Hickman	Employee Representative	Director of Safety and Code Training and Curriculum Development, International Brotherhood of Electrical Workers, Electrical Training Alliance
Randall A. Krocka	Employee Representative	Administrator and Project Director, Sheet Metal Occupational Health Institute Trust, International Association of Sheet Metal, Air, Rail and Transportation Workers
Mark S. Mullins	Employee Representative	National Coordinator, Elevator Industry Work Preservation Fund
Richard Tessier	Employee Representative	Director of Safety, United Union of Roofers, Waterproofers, & Allied Workers Representative Research & Education Joint Trust
Christina Trahan Cain	Employee Representative	Safety and Health Director, North America's Building Trades Unions
Christopher A. Fought	Public Representative	Global Construction & North America Contractor Safety Manager, General Motors, LLC
R. Ronald Sokol	Public Representative	President & CEO, Safety Council of Texas City
Christopher (Scott) Mabry	State Representative	Assistant Deputy Commissioner, North Carolina Department of Labor
Charles N. Stribling	State Representative	Kentucky Labor Cabinet, Department of Workplace Standards

G. Scott Earnest	Federal Representative	Deputy Director, Office of Construction Safety & Health, National Institute for Occupational Safety & Health (NIOSH)
Scott Ketcham	Designated Federal Official (DFO)	Acting Director, Directorate of Construction, U.S. Department of Labor - OSHA
Joseph (Joey) Gilliland	ACCSH Council	Office of the Solicitor, U.S. Department of Labor

Other Attendees:

Bruce Rolfsen	Bloomberg BNA
Karen Livingston	Associated Builders and Contractors
Travis Parsons	LHSFNA / LIUNA
M.K. Fletcher	NABTU / CPWR
Gary Visscher, Esq.	Law Office of Adele L. Abrams
Graham Brent	NCCCO Foundation
MaryAnn Garrahan	NIOSH / OSHA
Mike Saunders	Balfour Beatty US
Lara Nieves	OSHA
Joey Lee	OSHA / Alliances
Tony Brown	A.D. Brown Company
Sharease Giddins	OSHA / OOSA
Rich Bozek	Edison Electric Institute
Kimberly Darby	OSHA / OOC
Alan Lu	OSHA / DOC
Bryan Ewing	OSHA / DOC
Jens Svenson	OSHA / DOC
Eric Kampert	OSHA / DOC
Denisha Braxton	OPA
Simone Walter	OPA
Gopal Menon	OSHA / DOC
Rob Matuga	NAHB
Lynn Foley-Hering	Matrix NAC
Nazia Shah	AGC of America
Bill Hering	Matrix NAC, TAUC, and NMAPC
Bryant Seymour	OSHA / DOC
Courtney Murray	OSHA / DOC
Michael Payne	OSHA / DOC
Veneta Chatmon	OSHA / DOC
Nick Tindall	AEM
Damon Bonneau	OSHA / DOC

Opening Remarks:

Speaker: Chairman, Kevin R. Cannon

Chairman Cannon called the meeting to order and welcomed the attendees to the first ACCSH meeting of the year. Mr. Cannon extended a special welcome to the new appointees. While providing a brief overview of the function of ACCSH and the meeting agenda, Mr. Cannon noted the main purpose of the meeting will be to discuss OSHA's proposed rule to clarify the requirements for the fit of personal protective equipment in

construction (29 CFR 1926.95) and OSHA’s proposed rule to add a reference to the definition of “confined space” that applies to welding activities in construction (29 CFR part 1926, subpart J). He encouraged public attendees to get involved with ACCSH workgroups. He requested self-introductions of the committee members and the audience. Mr. Cannon concluded his opening remarks by advising attendees to utilize the two sign-up sheets provided; one to record attendance, the other for those interested in offering public comment.

For a full account of Chairman Cannon’s opening remarks, refer to page 2 (Line 2) of the July 17, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

OSHA Staff Remarks:

Speaker: Mr. Damon Bonneau, Office of Construction Services, Directorate of Construction, OSHA

Mr. Bonneau, an OSHA staff member, initiated his announcements with a detailed safety briefing related to procedures in the event of an emergency. He discussed the locations of nearby facilities for attendees and concluded his remarks by explaining heightened security procedures and the escort of attendees in the building.

For a full account of Damon Bonneau’s remarks, refer to page 12 (Line 18) of the July 17, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

Directorate of Construction Update:

Speaker: Mr. Scott Ketcham, Acting Director, Directorate of Construction, OSHA

Mr. Ketcham welcomed everyone in attendance to the meeting. After a brief pause due to technical difficulties, Mr. Ketcham presented a detailed update on issues pertinent to the directorate’s current focus and provided an overview of completed and ongoing projects & activities. He took questions from the committee and provided additional insight regarding items discussed in his presentation.

For a full account of Scott Ketcham’s presentation, refer to page 14 (Line 21) of the July 17, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://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 provided examples of technical data services, guidance documents, and other materials the directorate provides. She spoke about new uses for technology, OSHA variances, and updated the committee on current and emerging health and safety issues. Ms. Edens also updated the committee on the agency’s efforts to improve tracking of workplace injuries and illnesses. She took questions from the committee and provided additional insight regarding items discussed in her presentation.

For a full account of Ms. Edens’ presentation, refer to page 43 (Line 9) of the July 17, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

Acting Assistant Secretary's Agency Update and Remarks:

Speaker: Ms. Loren Sweatt, Acting Assistant Secretary of Labor, OSHA

Ms. Sweatt began her presentation by thanking everyone on the ACCSH committee for their service and expressing her appreciation for the work that they do. Ms. Sweatt went on to address OSHA's trenching initiative (an agency priority goal), the national safety stand-down to prevent falls in construction, personal protective equipment, and suicide in construction with the committee. As the committee had no questions for Ms. Sweatt, she concluded her presentation.

For a full account of Ms. Sweatt's presentation, refer to page 81 (Line 9) of the July 17, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

Proposed Rule to Clarify the Requirements for the Fit of Personal Protective Equipment in Construction (29 CFR 1926.95) Presentation:

Speakers: Mr. Garvin Branch, Office Director, Office of Construction Standards and Guidance, Directorate of Construction, OSHA

Mr. Vernon Preston, Office of Construction Standards and Guidance, Directorate of Construction, OSHA

Mr. Branch began the presentation by introducing himself and Mr. Preston. Mr. Preston then provided some background on OSHA's Standards Improvement Project No. IV (SIP-IV) and its provisions regarding employee PPE fit in construction. Mr. Preston discussed public comments received by OSHA regarding SIP-IV construction PPE fit provisions and the resulting proposed rule to clarify the requirements for the fit of personal protective equipment in construction. Mr. Preston concluded by explaining the rationale behind the proposed regulatory text and how it differs from the existing PPE standard at 1926.95.

No public questions or comments were received in response to the presentation. Mr. Branch and Mr. Preston took questions from the committee and provided additional insight regarding items discussed in their presentation. Following the committee's discussion, ACCSH made a recommendation:

Motion: Greg Sizemore moved that OSHA move forward with the proposed rule presented today with regards to PPE and fit. The motion was seconded by Christina Trahan Cain and passed unanimously.

For a full account of the recommendation, refer to page 117 (Line 3) of the July 17, 2019 meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

No Public Comments were received at the end of the July 17, 2019, meeting.

Mr. Cannon thanked everyone for attending, reminded everyone that the July 18, 2019, meeting would start at 9:00 a.m. in the same room, and adjourned the meeting at 2:41 p.m.

Joey Gilliland, ACCSH Counsel (EXHIBIT LIST)

Mr. Gilliland designated the following as exhibits:

- OSHA Construction Update PowerPoint as Exhibit 1.
- Directorate of Technical Support and Emergency Management (DTSEM) Update PowerPoint as Exhibit 2.
- Personal Protective Equipment in Construction PowerPoint as Exhibit 3.

He then stated that he would move them to the record.

For a full account of Mr. Gilliland's exhibit list, refer to page 118 (Line 9) of the July 17, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Speaker: Chairman Kevin R. Cannon

Chairman Cannon then adjourned the meeting.

Meeting adjourned at 02:41 PM.

Advisory Committee on Construction Safety and Health (ACCSH)

Minutes for July 18, 2019

U.S. Department of Labor
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200 Constitution Avenue, NW
Washington, D.C. 20210

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by Chairman Kevin R. Cannon at 09:00 a.m., on Thursday, July 18, 2019. The following committee members, OSHA staff, and other attendees were present:

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Kevin R. Cannon	Employer Representative	Director, Safety and Health Services, Associated General Contractors of America (AGC)
Fravel E. Combs	Employer Representative	Corporate Manager EH&S, M.A. Mortenson Company
Cindy DePrater	Employer Representative	Senior Vice President, Chief Environmental, Health & Safety Officer, Turner Construction Company
Greg Sizemore	Employer Representative	Vice President of Health, Safety, Environment and Workforce Development, Associated Builders and Contractors (ABC)
Wesley L. Wheeler	Employer Representative	National Director of Safety, National Electrical Contractors Association
Christina Trahan Cain	Employee Representative	Safety and Health Director, North America's Building Trades Unions
Palmer L. Hickman	Employee Representative	Director of Safety and Code Training and Curriculum Development, International Brotherhood of Electrical Workers, Electrical Training Alliance
Randall A. Krocka	Employee Representative	Administrator and Project Director, Sheet Metal Occupational Health Institute Trust, International Association of Sheet Metal, Air, Rail and Transportation Workers
Mark S. Mullins	Employee Representative	National Coordinator, Elevator Industry Work Preservation Fund
Richard Tessier	Employee Representative	Director of Safety, United Union of Roofers, Waterproofers, & Allied Workers Representative Research & Education Joint Trust
Christopher A. Fought	Public Representative	Global Construction & North America Contractor Safety Manager, General Motors, LLC
R. Ronald Sokol	Public Representative	President & CEO, Safety Council of Texas City
Christopher (Scott) Mabry	State Representative	Assistant Deputy Commissioner, North Carolina Department of Labor
Charles N. Stribling	State Representative	Kentucky Labor Cabinet, Department of Workplace Standards

G. Scott Earnest	Federal Representative	Deputy Director, Office of Construction Safety & Health, National Institute for Occupational Safety & Health (NIOSH)
Scott Ketcham	Designated Federal Official (DFO)	Acting Director, Directorate of Construction, U.S. Department of Labor - OSHA
Joseph (Joey) Gilliland	ACCSH Council	Office of the Solicitor, U.S. Department of Labor

Other Attendees:

Bruce Rolfsen	Bloomberg Law, BNA
Ken Stevanus	Directorate of Standards and Guidance
Doug Kalinowski	Directorate of Cooperative and State Programs
Bill Perry	Directorate of Standards and Guidance
Lynn Foley-Hering	Matrix NAC
Bill Hering	Matrix NAC, TAUC, and NMAPC
Mike Saunders	Balfour-Beatty, US
Don Head	Regional Safety Manager, DPR Construction
Jen Svenson	OSHA / OOC
Eric Kampert	OSHA / OOC
Christian Culligan	National Association of Home Builders
Joey Lee	OSHA / Alliances
Sharease Giddins	OSHA / OOC
Nick Tindall	AEM
Walter Jones	Laborers Health and Safety Fund
Travis Parsons	Laborers Health and Safety Fund
Michael Payne	OSHA / OOC
Lolita Oliver	OSHA / OOC
Brian Ewing	OSHA / OOC
Damon Bonneau	OSHA / OOC
Gretta Jameson	OSHA / OOC

Opening Remarks:

Speaker: Chairman, Mr. Kevin R. Cannon

Chairman Cannon called the meeting to order and reminded attendees to use the sign-in sheet and attendance booklet, if interested in making public comment. Mr. Cannon performed roll call to identify the ACCSH members in attendance and proceeded to turn the meeting over to Joey Gilliland, ACCSH Counsel.

For a full account of Mr. Cannon's opening remarks, refer to page 7 (Line 2) of the July, 18 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

ACCSH Counsel, Office of Solicitor:

Speaker: Mr. Joey Gilliland, Office of the Solicitor, U.S. Department of Labor

Mr. Gilliland introduced himself and raised a point of order stating that the motion approved on July 17 was not in the proper format because it did not take the form of a recommendation from the Committee. He then

requested that Mr. Sizemore restate the motion in the proper format for a vote for the record. Following this discussion, ACCSH made a recommendation:

Motion: Greg Sizemore moved to amend the motion approved on July 17 to state that ACCSH recommends that OSHA move forward with the proposed regulatory text from the NPRM for 1926.95(c):

(c) Design and selection. Employers must ensure that all personal protective equipment:
(1) Is of safe design and construction for the work to be performed; and
(2) Is selected to ensure that it properly fits each affected employee.

The amended motion was seconded by Christina Trahan Cain and passed unanimously.

For a full account of the recommendation, refer to page 10 (Line 18) of the July 18, 2019, meeting transcript, in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Directorate of Cooperative and State Programs Update:

Speaker: Mr. Doug Kalinowski, Director, Directorate of Cooperative and State Programs

Mr. Kalinowski introduced himself, provided a brief overview of DCSP and their long-term goals. He stated their primary purpose was to build positive employer relationships and share information. He cited examples of outreach initiatives and discussed how they were assisted by DSG's economist using three models to calculate the benefits of inspections to the economy. He then provided a brief overview of the VPP program and examples of their outreach initiatives. He discussed plans to collaborate with OSHA Training Institute (OTI) to develop training and to continue streamlining the VPP application and re-approval process.

For a full account of Mr. Kalinowski's presentation, refer to page 12 (Line 19) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <http://www.regulations.gov>.

Directorate of Standards and Guidance Update:

Speaker: Mr. William G. Perry, Director, Directorate of Standards and Guidance

Mr. Perry introduced himself and provided a brief update of the Crystalline Respirable Silica, Beryllium, Hazard Communication, Powered Industrial Truck and Respiratory Protection standards and the Safe and Sound Campaign. He discussed plans to issue a Request for Information (RFI) for dust control technologies to propose changes to the silica construction rule. He reported that a notice of proposed rulemaking (NPRM) was published to rescind all ancillary provisions and retain the new permissible exposure limit (PEL) and short-term exposure limit (STEL). He discussed plans to publish proposed amendments to the general industry rule and thus, clarify OSHA's original intent and respond to public comment. He discussed creating a seventh proposed revision to the GHS and respond to public comment. He discussed plans to issue an (RFI) for the Powered Industrial Trucks (PITs) standard to propose changes to an outdated standard that did not give adequate consideration to newer technology and stated that comments would assist in redrafting a proposed rule. He discussed plans to amend the Respiratory Protection Standard and propose changes to the rule. He stated that updates would be provided for departmental review. He provided a detailed overview of the Safe and Sound Campaign and then a brief discussion of the campaign's mission.

For a full account of Mr. Perry's presentation, refer to page 55 (Line 21) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

OSHA Staff Remarks:

Speakers: Mr. Garvin Branch, Office Director, Office of Construction Standards and Guidance, Directorate of Construction, OSHA

Speakers: Mr. Richard Ewell, Senior Attorney, Office of the Solicitor, OSHA

Mr. Branch introduced himself and Richard Ewell and Andrew Boddie, SOL representatives. He stated that the purpose of the briefing was to discuss how a rulemaking record could be reopened to amend the current definition of “confined space” and provide one definition for consistency among the requirements applicable to general industry, construction and ANSI Z117.1. He then stated that the 1926 Subpart J, Welding and Cutting standard, would also reference this definition. Mr. Ewell informed the group about the legal background of the issue and discussed two additional standards where the term was undefined. He also then discussed clarifying this issue for work in hazardous environments and applying the definition throughout the entirety of the construction standard.

For a full account of Mr. Branch's presentation, refer to page 85 (Line 3) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Following the committee’s discussion, ACCSH made the following recommendations:

Motion: Christina Trahan Cain moved that ACCSH recommend that OSHA proceed with the notice of proposed rulemaking to clarify that the definition of “confined space” in the Confined Spaces in Construction Standard (1926.1202), applies to all uses of that term in OSHA’s construction standards. The motion was seconded by Wesley Wheeler and passed unanimously.

Motion: Cindy DePrater moved that ACCSH recommends that OSHA look at all options including 1926.32 so that OSHA can explore other opportunities to clarify and simplify with the goal of consistency of language throughout. Palmer Hickman seconded the motion.

Motion: Cindy DePrater moved to amend her motion to state that ACCSH recommends that OSHA look at all options for defining confined space, including in 1926.32, so that OSHA can explore other opportunities to clarify and simplify with the goal of consistency of language throughout. The motion was seconded by Randall Krocka and passed unanimously

For a full account of the recommendations, refer to page 116 (Line 20) of the July 18, 2019, meeting transcript, in Docket No. OSHA-2018-0012 at <https://www.regulations.gov>.

Directorate of Training and Education (DTE) Update:

Speaker: Robert G. Murphy, Deputy Director, Directorate of Training and Education

Mr. Murphy provided a brief update of DTE's three-main programs and three-main functional units and summarized their main objectives. He also stated that fiscal year 2018, reported the highest number of students trained. He then discussed the history of the OTI Education Centers and the program’s partnerships, training options, grants, funding and plans for long-distance learning.

For a full account of Mr. Murphy's presentation, refer to page 123 (Line 6) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

National Institute for Occupational Safety and Health Construction Update:

Speaker: Scott Earnest, Deputy Director, Office of Construction Safety and Health, NIOSH

Mr. Earnest provided a brief update and history of NIOSH. He discussed their primary purpose and relationship with Health and Human Services', Centers for Disease Control and Prevention (CDC). He spoke about their mission, structure; the focus of NIOSH's construction program; their priority for fatalities; NORA and NIOSH's strategic goals; other program initiatives, and supporting OSHA's efforts with Table 1.

For a full account of Mr. Earnest's presentation, refer to page 155 (Line 14) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Office of Communications (OOC) Update:

Speaker: Gina Scott, Deputy Director of OSHA Communications, Office of Communications

Mrs. Scott provided a brief update and overview of the Office of Communication. She discussed their mission, goals, initiatives and promotions. She mentioned how analytical data provides information needed to improve the OSHA website and increase usability. She discussed use of publications, social media and other uses of outreach tools to educate and promote employer awareness of safety and health.

For a full account of Mrs. Scott's presentation, refer to page 180 (Line 17) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

ACCSH Work Group Discussion

The chair asked the committee to make recommendations on construction related topics and their preference for a specific work group assignment. The DFO recommended the use of only small work groups. The committee deliberated on the chair's request and recommended construction topics. In addition, a member recommended changing the name of the "emerging issues" work group to "emerging and current issues" and adding a second work group titled "education, training and outreach". ACCSH Counsel informed the group that meetings could be held by conference call in lieu of a full committee meeting, if certain conditions were met. Upon inquiry, Mr. Bonneau informed the group that the number of employer/employee representatives must be equal. Various group members discussed their experience with specific work group topics and reported their desire to provide expertise in the meetings. ACCSH Counsel informed the group that he saw no legal problem with these requests. Mr. Kampert then provided options for the selection of work group representatives. The Chair then informed the group that he and the DFO would collaboratively, select and assign members to work groups and communicate these decisions to the group by email.

Following the committee's discussion, ACCSH made a recommendation:

Motion: Ronald Sokol moved that ACCSH recommends that OSHA set up two work groups: (1) Emerging and current issues, and (2) Education, training, and outreach. The motion was seconded by Cindy DePrater and passed unanimously.

For a full account of the ACCSH Work recommendations, refer to page 205 (Line 10) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Public Comment:

Carolyn McKay Guglielmo, Public Commenter #1

Ms. Guglielmo introduced herself and congratulated new committee members. She discussed the length of time required for proposed rules to become final standards. She recommended that OSHA revise the process to make a prompt impact on employees/employers. She recommended placing fines from citation and penalties back into the training and education budget of DOL employees and grants. She then thanked the group for allowing her to present.

Mr. Travis Parsons, Labor's Health and Safety Fund of North America, Public Commenter #2

Mr. Parsons introduced himself and recommended that the group “keep up the good work.” He suggested that the work groups consider discussing two issues: 1) health hazards, and 2) worker fatigue as “emerging issues.” He stated that more fatalities occur from transportation than falls, especially on the oil and gas worksite. He then thanked the group for allowing him to present.

For a full account of Ms. Guglielmo’s and Mr. Parson’s presentation, refer to page 217 (Line 5) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Speaker: Chairman Kevin R. Cannon

Chairman Cannon highlighted the recommendations from the presenters and opened up the floor to Joey Gilliland, ACCSH Counsel, for exhibits to be entered into the record.

Joey Gilliland, ACCSH Counsel (EXHIBIT LIST)

Mr. Gilliland continued the exhibit list from July 17, and designated the following as exhibits:

- The Directorate of Cooperative and State Programs Update PowerPoint as Exhibit 4.
- OSHA DSG update PowerPoint Exhibit 5.
- Welding and Confined Spaces PowerPoint will be Exhibit 6.
- Directorate of Training and Education DTE Update PowerPoint will be Exhibit 7.
- The NIOSH Update Construction PowerPoint will be Exhibit 8, and
- The OSHA Communications PowerPoint will be Exhibit 9.

He then stated that he would move them to the record.

For a full account of Mr. Gilliland’s exhibit list, refer to page 226 (Line 13) of the July 18, 2019, meeting transcripts in Docket No. OSHA-2018-0012, at <https://www.regulations.gov>.

Speaker: Chairman Kevin R. Cannon

Chairman Cannon then adjourned the meeting.

Meeting adjourned at 3:35 p.m.