

Advisory Committee on Construction Safety and Health (ACCSH) Meeting Minutes - March 31-April 1, 2015

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 9:00 a.m. on Tuesday, March 31, 2015. The following members and OSHA staff were present:

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Jeremy Bethancourt	Public Representative	Co-Owner and Program Director, Arizona Construction Training Alliance
Christine M. Branche	Federal Representative	Principal Associate Director, CDC-NIOSH, and Director, Office of Construction Safety and Health, CDC- NIOSH
Kevin R. Cannon	Employer Representative	Director of Safety and Health Services, The Associated General Contractors of America
Sarah M. Coyne	Employee Representative	Executive Assistant Director, International Union of Painters and Allied Trades/Finishing Trades Institute
Letitia K. Davis	Public Representative	Director, Occupational Health Surveillance Program, Massachusetts Department of Public Health
Cindy DePrater	Employer Representative	Vice President, Director Environmental, Health and Safety, Turner Construction Company
Steven D. Hawkins	State Representative	Administrator, Tennessee Occupational Safety and Health Administration
Thomas Marrero Jr.	Employer Representative	National Safety Director, Tradesmen International, Inc.
Donald L. Pratt	Employer Representative	President & CEO, Construction Education and Consultation Services of Michigan
Jerry Rivera	Employer Representative	National Director of Safety, Power Design Inc.
Laurie A. Shadrick	Employee Representative	S&H National Coordinator, United Association of Plumbers and Pipefitters

Erich J. (Pete) Stafford	Employee Representative	Director of Safety and Health, Building and Construction Trades Department of the AFL-CIO; Executive Director of CPWR-The Center for Construction Research and Training
Charles Stribling	State Representative	OSH Federal-State Coordinator, Kentucky Labor Cabinet, Department of Workplace Standards
Dean McKenzie	Designated Federal Official	Deputy Director, Directorate of Construction, U.S. Department of Labor - OSHA
Lisa Wilson	ACCSH Counsel	Office of the Solicitor, U.S. Department of Labor

Opening Remarks:

Speaker: Chairman Pete Stafford

Chairman Stafford welcomed the attendees and conducted a round of self-introductions of the committee members, and then of the audience. He explained the purpose of the special meeting as being necessary to provide recommendations regarding a revision of crane operator requirements that OSHA intends to propose as a rule. He informed the audience that: OSHA would present the draft proposed rule; OSHA would then take questions from ACCSH; ACCSH would hear comments from the public about the draft proposed rule; and then ACCSH would use the information to make recommendations to OSHA the next day.

Speaker: OSHA Director Jim Maddux

Jim Maddux, Director of OSHA's Directorate of Construction, preceded OSHA's presentation with opening remarks. In his remarks, Mr. Maddux thanked everyone for their interest and participation in the special ACCSH meetings and also reiterated Mr. Stafford's description of how the meeting is anticipated to progress. In addition, he reminded the public that the ACCSH meeting is a public meeting of the committee and not a consensus meeting such as that used for negotiated rulemaking, nor is it an informal public hearing that may occur later in the rulemaking process. He further explained that there would be no public cross examinations of other public speakers or the ACCSH members. He asked that everyone try to be as brief as possible in communicating his or her views because time was limited and 18 speakers signed up to present their comments about the draft proposed rule. He then introduced OSHA presenters.

OSHA Presentation:

**Speakers: Paul Bolon- Director, Office of Construction Standards and Guidance
Ed Baird- Director, Office of the Solicitor, Occupational Safety and Health Div.**

Paul Bolon presented the draft proposed rule to ACCSH via a PowerPoint presentation (Exhibit 1 - Docket ID OSHA-2015-0002 at <http://www.regulations.gov>). He provided a brief history of the final rule and its operator qualification/certification requirements before describing proposed revisions of the rule. Proposed new or revised requirements are summarized below:

- Operator. Under the current final rule, employers have had to ensure the competency of their crane operators (evaluation). Once the operator certification requirement of the rule comes into effect, employers would be required to ensure that operators are certified/licensed. But stakeholders have made clear that certification alone is not sufficient, and operators must also be evaluated.
- Ensuring Operating Competency. To promote consistency in competency evaluations of operators, proposed criteria for qualification include an annual evaluation and episodic re-evaluation that would be documented. The evaluation would assess the skills of the operator as related to:
 - Capacity factors such as boom length, configurations, etc.
 - Use of load charts
 - Type of hoisting activities
 - Practical knowledge (when applicable) of signaling, setup, assembly/disassembly, etc.
- Operator in Training. Until an individual has been successfully certified/licensed and deemed competent by employer-evaluation, the “operator-in-training” may only run cranes while under continuous supervision of a person who has demonstrated the knowledge and skills to safely direct the operator-in-training (similar to final rule). The requirements for continuously monitoring an operator-in-training would be relaxed as proposed for simplicity and to reflect industry-recognized work practices.
- Training Requirements. To promote consistency in the training of operators and capture industry-recognized training practices, proposed criteria for training would be specified and would be documented by employers. It would include:
 - formal and practical instruction
 - topics covered by the written certification exam (from Appendix C in the crane standard)
 - only lifts that are within the abilities of the operator-in-training
- Certification/Licensing. Required certification/licensing (essentially the same as the final rule) can be obtained from a third-party testing entity, a government licensing entity, or an employer-audited program. Certification still includes a written and practical exam, but certification will only be by type of crane and not by capacity.
- Military Qualification. Civilian operators qualified by the Department of Defense would be exempted from the training and evaluation requirements.
- Controlling Employer Duty. A controlling contractor, who hires a crane service, would be required, at a minimum, to verify that the employer of the operator (or independent owner/operator) has met requirements for documentation of the operator’s certification and training/evaluation.

For a full account of Mr. Bolon's presentation, refer to page 18 (Line 16) through page 30 (Line 6) of the March 31, 2015 meeting transcript, in Docket - OSHA-2015-0002-0036 at <http://www.regulations.gov>.

ACCSH representatives provided comments and asked questions about the proposed rule that included:

Two representatives asked for clarification regarding who must monitor an operator-in-training. This prompted later discussions debating the merits of OSHA using the term "supervisor" in lieu of "trainer." A representative asked if OSHA considered providing any clarifications about what qualifications a "trainer" would be required to have. The same representative later quoted regulatory text that would prohibit testing organizations from also providing training of operators that would be needed for them to pass certification tests and questioned the origin of that prohibition.

A representative asked OSHA to clarify whether an experienced operator had to undergo all training again each time he started with a new employer, as seemingly required by the draft proposed standard. The same representative later asked the presenter how many of the employers encountered during site visits were doing annual reviews of all of their operators.

The Committee Chair asked whether the annual review of an operator's training and evaluation documentation would be intended to "validate the skills of an operator," and if not, he asked for clarification of the purpose of the proposed review.

A representative described the use of a crane on a typical, multi-employer, residential construction site and asked the presenters to explain how the proposed controlling entity requirements might be applied in a similar scenario. These two representatives and others later engaged in further discussions about how OSHA could better identify what entity on a construction site would be required to comply with the proposed controlling entity requirements. One representative suggested using the term "crane user" instead of "controlling entity".

A representative asked if any subcontractors, tradesmen like painters, electricians, plumbers, were consulted regarding their experiences with cranes operated at their worksites. OSHA said they had not spoken with any subcontractors, but would be open to doing so.

An ACCSH representative cautioned OSHA about using the term "license" with regard to the draft proposed operator certification/qualification requirements.

One representative asked about the annual review, six-month review, and Appendix D of the proposed regulatory text, specifically how many people interviewed by OSHA were doing these reviews and whether everything listed on Appendix D had to be completed for each review. OSHA responded that almost all interviewed did an annual review and some interviews suggested it was not unusual for an operator to be inactive for six months. Regarding Appendix D, it was not OSHA's intent that an employer would have to go through every element of the Appendix for each review.

For a full account of ACCSH's questions/discussion following OSHA's presentation, refer to page 30 (Line 13) through page 68 (Line 8) of the March 31, 2015 meeting transcript, in Docket - OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Public Comments:

Mr. Chuck Cooke, W.O. Grubb

Mr. Cooke stated that the proposed regulatory text was too complex. He proposed revising or deleting the annual evaluation. He also suggested that Appendix D be non-mandatory, or that employers be allowed to use documentation accepted by other government agencies such as the Mine Safety and Health Administration (MSHA). If someone wanted to see documentation of the operator's qualifications, Mr. Cooke believes it should be provided within 24 hours rather than immediately available.

For a full account of Mr. Cooke's comments refer to page 70 (Line 22) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Troy Wagner, Maxim Crane Works

During his testimony, Mr. Wagner said the evaluation process in the proposed regulatory text is too burdensome. Maxim has several operators that can operate different cranes. An evaluation per the proposed regulatory text would be a financial burden. Maxim does not have any cranes in their yard, so an evaluation could only occur on a worksite. Mr. Wagner also believes the proposal could lead companies to become brand-specific regarding which cranes they buy and who will operate them. In his opinion, reevaluation is only necessary if someone operates a crane unsafely. Operators are evaluated on a daily basis in his experience. If OSHA keeps reevaluation for anything other than unsafe operation, he recommends it occur every five years to coincide with recertification. Documentation of an operator's qualification should be readily available, not required on the worksite.

For a full account of Mr. Wagner's comments refer to page 82 (Line 22) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Michael J. Eggenberger, Sr., Bay Ltd, A Berry Company

Mr. Eggenberger believes that capacity should remain a part of the certification requirements. His company certifies operators and he thinks capacity is necessary to determine what a prospective operator can operate.

For a full account of Mr. Eggenberger's comments refer to page 89 (Line 11) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. James Callahan, International Union of Operating Engineers (IUOE)

Mr. Callahan stated that training in accordance with the proposal would be a burden on the employer considering that apprentice and training programs for crane operators already exist. He believes training and retraining operators would require employers to hire experts and will not have any safety benefits. With regards to the title of the person training the operator, he believes trainer is more appropriate than supervisor because supervisors do more than just watch crane

operations. Setting up cranes to qualify an operator would be infeasible for many employers because they do not have the space.

For a full account of Mr. Callahan's comments refer to page 100 (Line 14) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Larry Hopkins – IUOE, Local 12

Mr. Hopkins, the Director of Training for IUOE Local 12, supports the employer duty requirement, but believes the proposal goes further than necessary. The evaluation will not capture every situation that might occur in the industry. He suggested there be a mandate that employers ensure operators are safe. He supports documentation of an operator's qualifications, but does not think an employer should spend a lot of time on it. He suggested using the MSHA form mentioned by Mr. Cooke. The annual reevaluation is unnecessary and the evaluation should be ongoing in his opinion. He suggested a general note from the employer that an operator is qualified. With regards to the title of the person training the operator, he suggested referring to ANSI B30.5. He stated that if a trainer will supervise someone, they should be qualified beyond whom they are training.

For a full account of Mr. Hopkins's comments refer to page 110 (Line 22) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Immediately after reconvening after lunch recess:

Ms. Laurie Webber, on behalf of Kevin O'Shea, Scaffold and Access Industry Association (SAIA)

Ms. Webber, who represents the Scaffold and Access Industry Association (SAIA) and a manufacturer of mast climber scaffolds in Tennessee, read a statement which requested that OSHA revise the cranes standard as it affects mast climbing work platforms, because training on material hoists is sufficiently robust and requiring mast climbing hoist operators to obtain certification would interfere with existing training. In addition, Ms. Webber's statement maintained that crane operator training does not fit the skills required for scaffold hoist operation and that applicable certification for mast climber hoists is not available through any certifying body. ACCSH asked follow up questions about the maximum height and capacity of mast climber scaffold hoists. Ms. Webber stated that these hoists can be 100 feet high with up to 4000 lb. capacities.

For a full account of Ms. Webber's comments refer to page 144 (Line 4) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Jim Leslie, Operating Engineers Certification Program (OECF)

Mr. Leslie commented that the draft is well-written, but he had problems with the evaluation and review required in the proposal. He stated there are better ways to document qualification than using Appendix D. The annual review process would put an undue burden on employers because they are already evaluating their operators constantly. While he does not think reevaluation after five years would be bad, most operators do not work for an employer for five

years. Regarding the trainer, it should be an individual that is certified with the qualifications the operator-in-training is seeking.

For a full account of Mr. Leslie's comments refer to page 157 (Line 6) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Ms. Beth O'Quinn, Specialized Rigging & Carriers Association (SR&CA)

Ms. O'Quinn sent the proposal to members of her organization. One member believed the proposal, particularly the evaluation, would be infeasible because it required qualification on make, model, and configuration of the crane. She also stated that the annual reevaluation and reevaluation after six months of crane operator inactivity was too burdensome. She made the point that there was nothing stopping the employer from giving an operator qualification documentation whenever it was needed for a job, even if it was not accurate. Another member of her organization said that qualification would take weeks because it would involve assembly of the crane, evaluation of operation in each configuration, and disassembly of the crane. A third member of SC&RA said that certification and evaluation were good, but there are too many makes and models for the proposal to be effective. Regarding the evaluation, operators are evaluated daily by coworkers, clients, and everyone on the jobsite. This member also said that assembly and disassembly should not be part of the evaluation because the operator is not responsible for that activity. She recommends adjusting the language in the final rule with language that will increase safety, not add paperwork, and can be completed in less than three years. She also suggested allowing employers to do whatever they are doing now to qualify operators and applying OSHA's definition of qualified person to the standard. She also agreed that reevaluation coinciding with the five-year recertification made sense.

For a full account of Ms. O'Quinn's comments refer to page 173 (Line 7) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. William Smith, NBIS

Mr. Smith was a member of the Crane and Derricks Advisory Committee (C-DAC) and admitted C-DAC made a mistake including capacity as a requirement for certification. C-DAC never said that certification was equivalent to qualification; that was a step backwards from the original rule. Mr. Smith argued that crane operators were not responsible for most crane accidents. He then explained the Crane Coalition was formed to help the Department of Labor understand that there were only two issues that needed to be fixed: removing capacity from the crane operator certification requirements and not equating certification to qualification. In a letter to Congress, the Crane Coalition recommended two changes to the final crane and derricks rulemaking: delete capacity from the certification requirements and replace "deemed qualified" with the employer duty. Mr. Smith claimed California and Ontario have standards similar to what he recommended, and they have seen a reduction in accidents. With regards to training, Mr. Smith said the training requirements in the proposal are not good enough. He believes if the proposed regulatory text were published as is, OSHA would need to conduct SBREFA again because the economic burden was not considered in the current crane and derricks final rule.

For a full account of Mr. Smith's comments refer to page 189 (Line 12) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Thomas Sickelsteel, Private Citizen

Mr. Sickelsteel is the owner of a crane rental company in the state of Washington, which has required certification and operator qualification by the employer since 2010. He believes clear rules make for better worksites, and arbitrary timelines and prescriptive lists leave out important requirements. He also believes the proposal goes further than what was considered in the economic analysis of the final rule. In his opinion, employers should not rely on another employer to qualify an operator. He suggested removing the requirement to evaluate based on configuration and having a lesser evaluation process for experienced operators. He also recommended reevaluation of an operator if they operate the crane unsafely or the controls of a crane change. He believes the trainer should be a certified operator with the only exception being if you have a new crane in your fleet. He also suggested using “crane user” instead of “controlling entity” in the proposal and making Appendix D non-mandatory.

For a full account of Mr. Sickelsteel’s comments refer to page 212 (Line 11) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Graham Brent, National Commission for the Certification of Crane Operators (NCCCO)

Mr. Brent commended OSHA for removing the capacity requirement from certification in its proposal. Mr. Brent said that certification is not a replacement for the employer’s responsibility to ensure that an operator can operate the equipment. If the skillset for operating a crane does not change, then Mr. Brent does not see why any additional testing would be necessary. Mr. Brent did not see why a one-year or six-month reevaluation was necessary. He had concerns about whether the proposal would achieve its intended goals. He pointed to Ontario and California, which do not require employer qualification, as models OSHA could follow.

For a full account of Mr. Brent’s comments refer to page 229 (Line 10) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. J. Chris Ryan, Private Citizen

Mr. Ryan suggested replacing the entire evaluation section with a statement that the employer ensure the operator is qualified. He uses a seat check, which is triggered by an operator moving to a new crane, as a test of the operator and an inspection of the crane. A seat check can cover anything that the employer wanted the operator to do on a daily basis. The documentation for a seat check is similar to what OSHA included in its proposal, but some elements in the documentation, like judgment, are hard to determine. Also, he testified that the evaluation of a crane operator happens every day. He also supports keeping certification in the proposal.

For a full account of Mr. Ryan’s comments refer to page 245 (Line 1) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Dan Johnson, SFI Compliance

Mr. Johnson testified that the controlling entity section is confusing and members of the industry will not know their roles. He believes the controlling entity section should be removed from the proposal. Regarding Appendix D, he said he hires crane operators for their expertise. He is not in a position to evaluate them, and the operators cannot evaluate themselves.

For a full account of Mr. Johnson's comments refer to page 257 (Line 13) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Peter Juhren, Morrow Equipment

Mr. Juhren agreed with Billy Smith and added that the proposal was impractical for tower cranes. Every time a mast section is added to a crane, it is a reconfiguration and the operator would need to be reevaluated. Also, if there were multiple tower cranes on a worksite that had similar controls, but were of a different make, model, or configuration, the operators would not be interchangeable. Mr. Juhren estimated that the cost of each evaluation would be \$2,000. Because he fears litigation more than an OSHA citation, Mr. Juhren stated that if an operator were unsafe, others on the worksite would not allow it. He asked ACCSH to consider two questions: 1. how many accidents have been caused by unqualified operators and 2. if CDAC thought this was so important, why did they not address it?

For a full account of Mr. Juhren's comments refer to page 261 (Line 8) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Robert Weiss, Cranes, Inc.

Mr. Weiss said that operation certification saves lives and the diminishing number of accidents in California and Ontario serve as an example of that. These jurisdictions also have no evaluation requirements that resemble the proposal. The proposal makes sense because it requires the employer to do the things that third-party certification cannot accomplish. However, Mr. Weiss believes the proposal is too onerous. The evaluation would take too long and cost too much money, going far beyond the economic analysis of the final cranes and derricks rule. He supports the Crane Coalition's recommendations presented by Mr. Smith, especially removing capacity from the certification requirements and no longer equating certification to qualification.

For a full account of Mr. Weiss's comments refer to page 266 (Line 11) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. James Headley, the Crane Certification Institute of America (CIC)

Mr. Headley agreed with other commenters that evaluation in the draft standard is too stringent, and urged OSHA to move quickly on crane operator certification, or allow operator certification to go into effect before resolving operator qualification. He also suggested that OSHA should require certification to be by type *or* type and capacity, rather than simply deleting the capacity requirement, to clarify that CIC's model by type and capacity is still valid.

For a full account of Mr. Headley's comments refer to page 274 (Line 1) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Tony Brown, A.D. Brown Safety Consultants

Mr. Brown discussed concerns with the proposed requirements for controlling entities, and whether these requirements would create obligations for his clients in the entertainment industry since they will contract with crane companies to build stadiums, erect music festival stages, and build movie sets, and they make decisions concerning the site and location. In addition, Mr.

Brown discussed the history of the cranes standard development and stated that he supports Mr. Headley's suggestion that the standard allow certification by type *or* type and capacity.

For a full account of Mr. Brown's comments refer to page 279 (Line 9) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Mr. Francisco Trujillo, Miller and Long Concrete and Construction

Mr. Trujillo agreed with the concerns about evaluation that were raised by previous commenters. He noted that the necessary level of observation of the person observing an operator-in-training may change over time as that person becomes more skilled and therefore the trainer may not need to be a certified operator once the operator-in-training is almost fully qualified. He recommended the terminology "qualified observer" instead of trainer. He also noted concern that proposed language requiring the trainer to perform no task that diminishes the ability to watch operator-in-training is too vague, and that there should be exceptions to the "line-of-sight" requirement for operator-in-training observation for blind picks. ACCSH members asked who Mr. Trujillo believes should sign the documentation for evaluation. Mr. Trujillo stated that evaluation should be an ongoing, daily process rather than a form that is signed once a year. However, the person who completes the evaluation of an operator-in-training at Miller and Long to determine they can operate independently signs a Miller and Long form.

For a full account of Mr. Trujillo's comments refer to page 286 (Line 5) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Ms. Anne Soiza, Assistant Director of Washington State Department of Labor and Industries

Ms. Soiza, who oversees OSHA state plan operations in Washington, stated that Washington's operator certification rule has been in place for five years. She stated that she struggled with how the proposed controlling entity requirements work with the multi-employer doctrine, and that she believes the determination of who is responsible for ensuring the operator is qualified is a legal determination that is fact specific and varies on a case-by-case basis. She also stated that Washington's standard does not have an evaluation component or requirements for re-evaluation, but since operator certification has gone into effect Washington has had no problem with crane accidents caused by unqualified operators. ACCSH member Mr. Hawkins asked Ms. Soiza about Washington's requirement for crane operators to have seat time, and Ms. Soiza confirmed that this requirement is in Washington's standard, in addition to certification and a general employer duty to be responsible for operator qualification.

For a full account of Ms. Soiza's comments refer to page 300 (Line 17) of the March 31, 2015 meeting transcript, in Docket OSHA-2015-0002-0036 at <http://www.regulations.gov>.

Closing comments on March 31, 2015:

Mr. Maddux thanked everyone for their participation and discussed objective for ACCSH to turn the information they heard into recommendations. Mr. Maddux suggested that ACCSH might consider offering a series of recommendations, including general and more specific recommendations concerning each issue. OSHA agreed to provide a list of issues raised on March 31 to ACCSH in advance of the April 1, 2015 meeting.

ACCSH member Mr. Hawkins asked OSHA whether OSHA was open to reconsidering re-evaluation. Mr. Maddux recommended that ACCSH focus on making recommendations for OSHA independent of OSHA's position.

Chairman Stafford adjourned the meeting at 4:29 p.m. until 9:00 a.m. the following morning.

Day 2, Wednesday, April 1, 2015:

Chairman Stafford reconvened the meeting at 9:00 a.m., Wednesday, April 1, 2015. He explained that OSHA would provide a list of issues that were raised the previous day by public speakers for ACCSH to consider before making any necessary recommendations. Before commencing that process, he announced that Dr. David Michaels, Assistant Secretary of Labor for OSHA, would first speak to ACCSH.

Assistant Secretary for Occupational Safety and Health - Dr. David Michaels:

Dr. Michaels made a brief visit to the meeting to thank the public speakers and ACCSH for their interest in discussing the draft proposed rule on operator qualification/certification at the special meeting of ACCSH. Dr. Michaels then updated ACCSH on several recent OSHA actions including the Fall Protection Stand Down Initiative and sharing a success story regarding OSHA's application of its new Recordkeeping requirements.

ACCSH Recommendations:

Motion: Steven Hawkins moved that ACCSH recommend that OSHA move forward with certification by the means in the current standard and pursue employer qualification of crane operators. The motion was seconded and passed unanimously.

Motion: Letitia Davis moved that ACCSH recommend that OSHA clarify the requirement for certification so that certification can be by type or by type and capacity. The motion was seconded and passed unanimously.

Motion: Steven Hawkins moved that ACCSH recommend that OSHA reconsider the language in the proposed text that appears to require the employer to observe operation of the crane in each and every configuration. The motion was seconded and passed unanimously.

Motion: Christine Branche moved that ACCSH recommend that OSHA use the text submitted by William Smith (Exhibit 12) as a substitute for the draft language on evaluation in the proposed text. The motion was seconded and passed unanimously.

Motion: Charles Stribling moved that ACCSH recommend that OSHA delete the annual re-evaluation provision in the proposed rule. The motion was seconded and passed unanimously.

Motion: Steven Hawkins moved that ACCSH recommend that OSHA consider employer re-evaluations that coincide with the re-certification period. The motion was seconded and passed unanimously.

Motion: Cindy DePrater moved that ACCSH recommend that OSHA consider adding a provision that if the operator operates the equipment in an unsafe manner, the operator must be re-evaluated by the employer. The motion was seconded and passed unanimously.

Public Comments:

Michael Eggenberger, Sr., Bay Ltd. Mr. Eggenberger offered additional remarks concerning his crane safety background and experience with the cranes standard's development. He stated that he believes it is a mistake to remove capacity from the operator certification standard and recommended that OSHA return to the existing standard with only the possible amendment to type and capacity.

For a full account of Mr. Eggenberger's comments refer to page 469 (Line 5) of the April 1, 2015 meeting transcript, in Docket OSHA-2015-0002-0037 at <http://www.regulations.gov>.

Jim Worrell, heavy lifting/rigging engineer. Mr. Worrell made remarks concerning the importance of lift planning and site safety in causing crane incidents and urged OSHA to give attention to this, and to place responsibility for ensuring operator qualification on the lift director.

For a full account of Mr. Worrell's comments refer to page 472 (Line 3) of the April 1, 2015 meeting transcript, in Docket OSHA-2015-0002-0037 at <http://www.regulations.gov>.

Larry Hopkins, training director for IUOE Local 12. Mr. Hopkins recommended that OSHA should consider defining type in the standard based on the requirements in the ASME B30 standard. Mr. Hopkins also noted that if the evaluation requirements go forward, OSHA should involve subject matter experts to determine what is reasonable, and look to the leadership in CDAC as an example.

For a full account of Mr. Hopkins' comments refer to page 479 (Line 2) of the April 1, 2015 meeting transcript, in Docket OSHA-2015-0002-0037 at <http://www.regulations.gov>.

Robert Weiss, private citizen. Mr. Weiss noted that training is often coming from the union apprenticeship program and is documented by the union, so OSHA needs to clarify how this scenario would work if the employer is required to complete evaluation documentation. Mr. Weiss also wanted to clarify that the training in Appendix C is satisfied by the completion of operator certification.

For a full account of Mr. Weiss's comments refer to page 481 (Line 20) of the April 1, 2015 meeting transcript, in Docket OSHA-2015-0002-0037 at <http://www.regulations.gov>.

Peter Juhren, private citizen. Mr. Juhren suggested that OSHA should follow a rule in which employer qualification does not undermine certification and in which evaluation is a continuous process, as in the language unanimously voted on by ACCSH.

ACCSH representative Mr. Hawkins asked if he supports five years as an appropriate time frame for operator re-certification. Mr. Juhren believes five years is appropriate for re-certification to account for changes in the cranes standard and industry, but that employer evaluation of operators is continuous.

For a full account of Mr. Juhren's comments refer to page 484 (Line 1) of the April 1, 2015 meeting transcript, in Docket OSHA-2015-0002-0037 at <http://www.regulations.gov>.

Closing Comments:

Mr. Maddux thanked everyone for participation in the recommendation process and also mentioned OSHA's fall prevention campaign and Fall Safety Stand-Down, asking ACCSH for assistance and providing stand-down materials.

Mr. Stafford adjourned the meeting at 12:24 p.m.