

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

**MINUTES of 12-13 February, 2004 Meeting**

Embassy Suites Hotel, Chicago O'Hare-Rosemont  
5500 North River Road  
Rosemont, IL, 60018

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by the **Chair, Robert Krul**, at 8:30 a.m. on Thursday, February 12, 2004. The following members were present for all or part of the meeting:

<b>NAME</b>	<b>SECTOR Represented</b>	<b>TITLE &amp; ORGANIZATION</b>
Robert Krul Chair	Labor	Dir. of Safety & Health, United Union Roofers Waterproofers & Allied Workers
Jane F. Williams	Public	President, A-Z Safety Resources
Frank L. Migliaccio JR.	Labor	Exec. Dir. Of Safety & Health, Intl. Assoc. of Bridge, Struct. Ornam. & Reinforcing Iron Workers
<b>Scott Schneider</b>	<b>Labor</b>	<b>Dir. Of S&amp;H, Laborers' Health &amp; Safety Fund of No. America</b>
<b>William Rhoten</b>	<b>Labor</b>	<b>Dir. Of S&amp;H, U. A. of Journ. &amp; Appr. Plumbers Of the Pipe Fitting Industries of the U.S. and Canada</b>
Greg Strudwick	Mgt.	President, Greg Strudwick & Assoc. Inc.
David M. Bush	Mgt.	CEO, Adena Corporation
Mike Sotelo	Mgt.	Vice President/Field Operations, W.G. Clark Construction Co.
Thomas A. Broderick	Public	Executive Director, Construction Safety Council
Dan Murphy	Mgt.	V.P. Risk Control, St. Paul Fire and Marine Insurance

NAME	SECTOR Represented	TITLE & ORGANIZATION
Kevin Beauregard	State	Assist. Dep. Commissioner, Dir. of Div. of Occupational Safety & Health, N.C. DOL
<b>Michael Thibodeau</b>	<b>Mgt.</b>	<b>Dir. Of Risk Mgt., Lennar Corp.</b>
<b>Cheryl Estill</b>	<b>Fed.</b>	<b>Indust. Hygiene Sup., Industry Wide Study Br., DSHEFS, NIOSH</b>
Bruce Swanson	Fed.	Designated Federal Representative (DFR) for ACCSH, Director, Directorate of Construction (DOC)

ACCSH members **Joseph Durst**, and **Keith Goddard** were absent. New ACCSH members' names are bolded in the ACCSH Membership table above. Approximately 30 members of the public were in attendance at various times, as were a number of DOL/OSHA representatives, including **Sarah Shortall** (ACCSH Counsel, Office of the Solicitor), **Stew Burkhammer** (DOC), **Felipe Devora** (DOC), and **Steve Cloutier** (DOC).

**Robert Krul**, the ACCSH Chair, welcomed all attendees, and asked all present to sign in on the ACCSH sign-in sheet. He then discussed the emergency access route and emergency medical procedures. He also requested that attendees silence their cell phones. The Chair requested that members of the public who wished to address ACCSH submit their names to the Chair, and indicated that the public comment period would probably be the next day, prior to adjournment. All attendees introduced themselves, and the new ACCSH members described their background and experience, as it related to Construction, Safety, and Health issues.

**Assistant Secretary John L. Henshaw** gave a presentation on OSHA, its recent activities, and future plans. The **Assistant Secretary** first thanked the ACCSH members for their time and effort expended in assisting the DOC fulfill its mission. He discussed the current situation at OSHA, including ongoing initiatives, accomplishments, pending actions, and the President's 2005 budget. The 2005 OSHA budget is over \$4 million higher than the 2004 budget, and the **Assistant Secretary** thinks that the projected budget will enable OSHA to execute in a way that will maximize the impact in respect to achieving a triple bottom line improvement, i.e. reducing injuries, illness, and fatalities. He believes that the best way to accomplish this is to seek a proper

balance between: strong, fair, and effective enforcement; outreach; education; compliance assistance; and cooperative and voluntary programs. Thus, the 2005 budget includes a \$1.7 million increase in program grants to fund consultation services, and \$4.4 million for compliance, assistance, and outreach. The **Assistant Secretary** outlined new initiatives, such as Enhanced Enforcement, a new VPP in Construction program, and the Challenge program. He explained that the goal of the Enhanced Enforcement program is to focus attention, and affect change at recalcitrant work places, because of the leverage this potentially has to improve workplace injury and fatality rates. The **Assistant Secretary** specifically mentioned Trenching as an area where he would like ACCSH assistance in formulating plans to reduce the high rate of mishaps/accidents. ACCSH members informally indicated that they were ready to approve creation of an ACCSH Trench Work Group. The **Assistant Secretary** also addressed the court-mandated schedule for the hexavalent chromium (HVC) proposal to be drafted and finalized, in addition to the rationale behind the proposed exemption of Portland Cement.

**Robert Krul**, the ACCSH Chair, addressed **ACCSH Business**, including: ACCSH members' right to propose agenda items; the desire among ACCSH members to form a Trenching Work Group; and the sentiment among members that they did not currently possess enough information to make a recommendation on the proposed HVC rule. A March ACCSH meeting was discussed, as a way of enabling ACCSH members to see all the data, and have a chance to make an informed recommendation to DOC.

**Felipe Devora presented** gave a presentation entitled **Hispanic Workforce In Construction**. Devora described the disproportionate Hispanic Construction worker injury and fatality rates (Hispanics make up 18% of the construction work force, but suffer 21% of the construction fatalities), and discussed a variety of methods being utilized across the country to ameliorate the situation, including outreach, Public Service announcements in Spanish, Spanish language e-tools, community/church involvement, etc. He also focused attention on the differential in foreign-born vs US-born Hispanic Construction fatality rates (foreign-born Hispanic fatality rates are higher). In addition, Devora described the IMMLANG (Immigrant Language) system, which is triggered by the opening of a fatality report by a COSHO. IMMLANG attempts to collect a range of data about the casualty, especially language and culture related items, which will improve the quality and fidelity of the data collected. The data will help OSHA design programs to reduce the fatality rates of Hispanics in construction. For instance, searching IMMLANG information reveals that 28 percent of the trench-related fatalities in 2003

were experienced by Hispanic workers. Devora also indicated that a DOL/NIOSH Hispanic Summit is being planned for this year, and he expects that this forum will generate advice and counsel on how to improve safety awareness among Hispanic construction workers.

**Greg Strudwick** gave a briefing titled **On Common Ground - Study Of One-Call Systems And Damage Prevention Best Practices.**

At the last ACCSH meeting, **Strudwick** was charged by ACCSH Chairman, Robert Krul, and encouraged by Mr. Swanson to address this committee about a concern about potential damage to existing utilities, specifically gas lines. The National Transportation Safety Board, NTSB, contacted the OSHA Construction Directorate to inquire about specific language in the construction standards that would direct or require a contractor to call 911 or the local fire department when, or if, a damaged the gas line resulted in a significant amount of gas escaping from the pipe. **Strudwick** researched the question and gave a presentation to ACCSH, which outlined the general industry best practices that relate to the damaging of gas lines, and described how emergencies are supposed to be handled by the entity causing the damage. He discussed the notification requirements in Subpart P of the 1926 Construction Standards, among other items, and he provided ACCSH members with a book titled "**A Common Ground Study of the One-Call Systems and Damage Prevention Best Practices**" dated August, 1999. Strudwick's view is that it is only prudent to call 911, and, in the instance where you cannot control the release of the gas, to effect an evacuation of the area in order to protect personnel against the possible ignition of that gas. He went on to state that the experts he had talked to would not object to a recommendation that such language be included in Subpart P. He further stated that anyone desiring more information on this subject can call his 800 number: 1-800-426-8920.

**Chairman Krul** thanked Strudwick for the report, and said he would pass the report on to Mr. Swanson. He requested that ACCSH members read the minutes of the May ACCSH during the evening in preparation for a vote on acceptance the next day. He also indicated that the next ACCSH meeting would held in Washington DC, and that the best time-frames were either the week of 17 May, or the week of 24 May, 2004. He indicated that DOC would choose a date, and promulgate it via Federal Register, the ACCSH web page, and email.

**Kevin Beauregard** gave the **Tower Erection Workgroup Report.** He began with some background on the Tower situation, pointing out that, whereas most industries experience a fatality rate of about

5 deaths per 100,000 employees, the tower erection industry fatality rate has recently been approximately 30 times higher. He reported that a Partnership in Region 5, signed in 2001, has been quite successful. There are currently 53 partners, and thus far no partner has reported a fatality. Beauregard discussed a number of tower-related issues and potential fatality reduction strategies, specifically: a detailed outline of a potential tower standard was included in the package to be passed to OSHA; sending letters and outreach information to tower licensing applicants; communicating with city and county building permit authorities, and the FAA; outreach activities; development of an OSHA 500 specifically for towers; implementation of a nation-wide tower emphasis program similar to the Region 5 program; development of a tower e-tool by OSHA; development of an OSHA hazard alert for towers; development of mailing lists for towers, operators, and carriers; development of more safe practice booklets and pamphlets in addition to those already produced by the National Association of Tower Erectors (NATE) and OSHA; continuing to work with insurance companies, because the access they have to accurate accident statistics; best practices; weekend fatality statistics; the dearth of pre-employment drug screening in the industry, and the relation of this lack to high industry fatality rates, especially on weekends; high industry fatality rates among workers in the industry less than one year; the status of North Carolina's tower rule; and Spanish language materials. Beauregard indicated that he would present a motion from the Work Group later in the meeting.

**Steve Witt And Amanda Edens** (Directorate Of Standards And Guidance) presented a Report on **Chromium**. Edens reported that OSHA has been working on a chromium standard for a number of years. During the 1990's OSHA was petitioned to move forward with rule making, and in 1998 the Assistant Secretary committed to working towards a proposed rule. The Third Circuit Court of Appeals has imposed a schedule on OSHA to develop a proposal, and in compliance with the Court order, OSHA will publish a proposal in October 2004. This deadline means that the SBREFA process must complete in April, 2004. Public hearings should commence in February 2005, and the post-comment period should extend into March of 2005. The final rule must be produced by January, 2006. Edens proceeded to describe the seven construction activities likely to involve exposure to HVC: painting and surface preparation, involving HVC paints; welding, thermal cutting on stainless steel, or surfaces painted with HVC paints; woodworking with wood that has been treated with chromium and arsenic; industrial rehabilitation and maintenance; hazardous site waste work; refractory restoration; and work with wet cement. She included an overview of current exposure statistics for each

activity. She also pointed out that the wet cement does not produce airborne HVC - it presents a problem of allergic contact dermatitis. Bob Burt was able to address ACCSH via a conference phone line on speaker-phone. He addressed the economics as it related to the different activities, and indicated that OSHA is still evaluating the costs associated with setting the PEL at a variety of levels. The costs for the construction industry range from about \$18 million for a PEL of 10 to about \$290 million for a PEL of 0.25. The bulk of these costs are associate with engineering controls and respirators, especially as the PEL is lowered. ACCSH members discussed a variety of issues with Eden and Burt. Edens confirmed that OSHA will probably establish a single PEL for all industries, and ACCSH members were unanimous in their support for a single PEL. Edens informed ACCSH that they were a number of HVC areas that OSHA wanted ACCSH to comment on. Since certain activities (abrasive blasting; welding, cutting and torch burning on stainless steel; and spray painting of chromium paints) result in exposures above the PEL, until an initial assessment is done, you have to assume that these activities produce exposures greater than the PEL. OSHA wanted ACCSH to comment on whether this is an appropriate approach, and whether OSHA has identified the appropriate activities. In addition, OSHA desired ACCSH comment on the "change area" vice "change room" language in the draft proposal (as opposed to that for General Industry). OSHA also wanted comments on the deletion of the housekeeping provision. ACCSH members responded that, for most of the questions, they did not have enough data to make comment, and that, in order to formulate comments by April, ACCSH would probably have to meet in March. Several ACCSH members strongly objected to the lack of provision for a Changing Room in the draft.

**Paula White** gave a report entitled **VPP Construction Pilot Results, Alliances, Partnerships, And New VPP - Construction Overview**. She briefed ACCSH on what OSHA has discovered about the traditional VPP in terms of its fit for construction and what needs to be modified or changed. OSHA has found that it needs to be able to recognize and allow applications for construction at a variety of levels, probably at the corporate level, the business level, and the site level. In addition, OSHA needs to address the needs of short-term sites, and the needs of construction sub-contractors. OSHA intends to publish a Federal Register Notice in the Fall of 2004 outlining the new program, and commence the new program in January 2005. The OSHA Challenge program is a piece of OSHA's strategy to get as many entities as possible in America on a path to improving safety and health performance in their work places. The program will not be administered by OSHA, but by outside administrators. After going through the Challenge

program, a program or site would be ready to get into VPP if they so desire. Currently the program will be run as a pilot, and in the future administrators will be selected through a Federal Register process. White discussed Alliances, saying that one of the benefits of the program is that it presents an opportunity to build a cooperative trusting relationship. It is also another way for an organization and its personnel to get over the OSHA fear factor. Currently, there are 10 Construction Alliances signed, and 10 more either in process, or soon to be signed. White also discussed the fact that OSHA has made a commitment to hold a Hispanic Summit this summer (June or July). The mission of the summit is to bring together representatives from government, industry, labor unions, and faith-based organizations. This community can share best practices and identify things OSHA could be doing better.

**Chairman Krul** pointed out that the New Member Orientation would commence after the day's adjournment.

**Beauregard** made the following motion:

ACCSH recommends to OSHA that the Agency expeditiously move forward with developing and implementing a national emphasis program regarding the construction and maintenance of telecommunications towers. ACCSH also recommends that these efforts include: 1) outreach activities 2) targeting activities (outreach and compliance) and 3) the consideration of adding a tower standard to the regulatory agenda. ACCSH includes with its recommendation a list of specific targeting approaches and outreach activities that the committee recommends OSHA should include in this endeavor. (The list of specific targeting approaches and outreach activities is attached as an appendix to the Work Group product.)

Additionally, ACCSH also recommends the continuance of the Telecommunications Workgroup to review activities and topics related to telecommunications towers until such time as this item is placed on the regulatory agenda.

The motion was seconded, and was unanimously accepted by ACCSH members.

**Michael Buchet** presented a progress report on **Negotiated Rulemaking Subpart N - Cranes And Derricks**. He reviewed the history of the process, the composition of the committee, and the fact that the committee generally tries to meet once a month. Buchet gave a synopsis of the committee's deliberations, and indicated that the committee will be negotiating using a list

previously published in the Federal Register. Changes to the list will be published via Federal Register, along with an announcement documenting the regulatory concepts that the committee has voiced thus far.

**Chairman Krul** further discussed the fact that a March ACCSH meeting might be required to generate input for OSHA's HVC proposal. Swanson reiterated the fact that ACCSH members would be provided the data they need, and that if a March ACCSH meeting is required to get OSHA the ACCSH input, the meeting would be scheduled and announced.

**Broderick** made the following motion:

ACCSH recommends that Portland cement be included in the proposed Hexavalent Chromium (HVC) standard. The motion was seconded, and unanimously accepted by ACCSH.

**Rhoten** made the following motion:

ACCSH recommends that the same permissible exposure limit (PEL) for Hexavalent Chromium be established for all industries. The motion was seconded and unanimously accepted by ACCSH.

**Zigmas Sadauskas**, Director, OSHA Training Institute, provided ACCSH a briefing entitled **Presentation On the OTI 10-Hour Course**. He gave a comprehensive history of the courses provided at OTI, and explained the context of the current course mix. He stated that the Institute's main goal is to teach federal and state compliance officers. The education centers do most of the 500 courses and their outreach trainers are the ones handing out most of the 10-hour cards.

**Chairman Krul** led a discussion on Work Groups. The following is a listing of the Work Groups deemed still viable, and a listing of the Co-Chairs, and Work Group Members:

1. **Silica**

Co-Chairs: Williams, Estill  
Labor - Schneider  
Management - Strudwick

2. **Noise**

Co-Chairs: Durst/Schneider, Bush  
Labor - Durst/Schneider  
Management - Bush



### 3. Homeland Security

Co-Chairs: Williams, Strudwick  
Labor - Rhoten, Migliaccio  
Management - Strudwick, Thibodeaux  
Other - Broderick

### 4. Diversity and Multilingual Issues

Co-Chairs: Broderick, Williams  
Labor - Rhoten  
Management - Sotelo, Murphy, Bush  
Other - Estill

### 5. OTI Course Ideas & Delivery Systems

Co-chairs - Migliaccio, Thibodeaux  
Labor - Migliaccio  
Management - Thibodeaux, Strudwick  
Other - Williams

### 6. Certification and Training

Co-Chairs - Durst, Thibodeaux  
Labor - Durst, Rhoten  
Management - Thibodeaux, Strudwick  
Other - Broderick

### 7. Tower Erection

Co-Chairs - Migliaccio, Beauregard  
Labor - Migliaccio  
Management - Sotelo  
Other - Williams

### 8. Hexavalent Chromium

Co-Chairs - Rhoten, Estill  
Labor - Rhoten, Schneider  
Management - Bush  
Other - Williams

### 9. Trenching

Co-Chairs - Schneider, Strudwick  
Labor - Schneider  
Management - Strudwick

At the request of ACCSH member **Schneider, Swanson** took an **Action Item** to arrange for the **OSHA Targeting Task Force** to give a Report at the next ACCSH.

**Schneider** took an **Action Item** to present a report on **Work Zone Safety** at the next ACCSH.

ACCSH unanimously accepted the draft Minutes for the May 2003 ACCSH meeting, with corrections as agreed to by the Chair. The corrections agreed upon are:

Page 4: in the second paragraph, change AFC-CIO to read AFL-CIO

Page 7: the 800 number listed is for Strudwick NOT Connell

Page 10: insert Kevin Beauregard in place of Tom Broderick as giving the Tower Erection Work Group Report.

Page 10: under the OTI Course Ideas and Delivery Systems Work Group report, change the third sentence to read:  
"ACCSH voted unanimously to accept the report and the recommendations, including the recommendation that the 10-hour program remain a 10-hour program."

**Chairman Krul** requested ACCSH members with information on interfaith groups to pass the information to Devora at DOC. He then moved on to a discussion of the Procedural Guidelines for the Operation of ACCSH, specifically, the Rev. 2, February 14, 2003 recommendations. A mark-up of the Guidelines was conducted. Some of the modifications include:

Page 2: under the typical agenda, add ACCSH/DFO Self-Introductions. In addition, "other meeting attendees." replaces "stakeholders."

Page 6: Add the text "Workgroup co-chairs may call upon an ACCSH member to attend meetings necessary for the work of the workgroup whenever conflicts prevent their attendance."

Page 6: Add the text "Whenever possible prior to an ACCSH meeting, the Directorate of Construction will be forwarded an electronic copy of the workgroup's product, especially formal presentations."

Page 7: Add the text "Final reports may be placed on the ACCSH Web site if requested by the workgroup co-chairs and if DOC can accommodate the request. A final report will include a cover sheet specific to the document's intent and indicate to the stakeholders any comments to be directed to."

Page 7: Add the text "ACCSH may request internal reports to be placed on the ACCSH Web site to accommodate additional stakeholder comments if DOC can accommodate the request."

A motion was made and seconded to accept the changes to Rev. 2 of the Procedural Guidelines for the Operation of ACCSH. The motion was unanimously accepted by ACCSH. **Williams** will make the agreed-upon changes to the Procedural Guidelines for the Operation of ACCSH, and forward the updated document to the ACCSH DOC point of contact.

**Swanson** took two additional **Action Items**, at the request of **Schneider**:

First, to provide ACCSH a report at the next meeting, about how the enhanced enforcement effort is being applied in the construction industry.

Second, to provide an overview of what the Agency is doing on ergonomics in construction on a variety of different programs that they have established.

**The Chair** proceeded to focus on to **ACCSH Business**. It was decided that the next ACCSH meeting would be held in Washington at DOL Headquarters. The timing was left unspecified, but the meeting will probably be held in mid May, 2004. The ACCSH meeting will be announced via Federal Register, the ACCSH web site, and email.

ACCSH Adjourned at 10:00 p.m. on 13 February, 2004.

To make it easier to retrieve them, all motions considered during the ACCSH meeting are repeated here:

After being moved by an ACCSH member, and seconded by another ACCSH member, the following Motions were unanimously accepted by ACCSH in February, 2004.

**Motion 1:**

ACCSH recommends to OSHA that the Agency expeditiously move forward with developing and implementing a national emphasis program regarding the construction and maintenance of telecommunications towers. ACCSH also recommends that these efforts include: 1) outreach activities 2) targeting activities (outreach and compliance) and 3) the consideration of adding a tower standard to the regulatory agenda. ACCSH includes with its recommendation a list of specific targeting approaches and outreach activities that the committee recommends OSHA should include in this endeavor. (The list of specific targeting approaches and outreach activities is attached as an appendix to the work group product.)

Additionally, ACCSH also recommends the continuance of the Telecommunications Workgroup to review activities and topics related to telecommunications towers until such time as this item is placed on the regulatory agenda.

**Motion 2:**

ACCSH recommends that Portland cement be included in the proposed Hexavalent Chromium (HVC) standard.

**Motion 3:**

ACCSH recommends that the same permissible exposure limit (PEL) for Hexavalent Chromium be established for all industries.

**Motion 4:**

ACCSH approves the May 2003 ACCSH meeting minutes, as revised and corrected by the Committee.

**Motion 5:**

ACCSH approves the February 3, 2003 proposed ACCSH Guidelines and Procedures, as amended by the committee. Jane Williams will make the corrections agreed upon by the committee, and forward the updated document to the ACCSH DOC point of contact.