

THE BI-MONTHLY PUBLICATION OF THE DISTRIBUTION CONTRACTORS ASSOCIATION



DCA NEWS

JULY / AUGUST 2024

**DCA Mid Year
Meeting**

**Committee
News**

Fall Meeting



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DCA 2024 Mid Year Meeting Wrap-Up

As the dog days of July set in, America's neighbor to the north prepared for the arrival of the DCA, in the heart of the mountains that hosted the 2010 Winter Olympics — Whistler, British Columbia. The weather forecast promised a beautiful week ahead.

Nestled among the snowy peaks of the Pacific Coast Ranges, the Fairmont Chateau Whistler required a spectacular two-hour drive through downtown Vancouver and up the famed Sea-to-Sky Highway (Highway 99) to reach from the airport.

Members who arrived early had the chance to shop Whistler Village and explore the many wooded hike-and-bike trails and hidden lakes throughout the area. The registration party on Sunday, July 14, kicked off the event and was followed by the Welcome Dinner, which was set on a fourth-floor terrace garden pavilion with a

panoramic view of the surrounding mountains. With a musician providing live entertainment, an open bar, a game table for the kids, and summer flowers in bloom all around, DCA folk and their families mingled and marveled until long after the sun dipped behind the western peaks.

July 15: Juggling Acts and Juggling Meetings

The warm-up act for Monday breakfast was popular Las Vegas performer Jeff Civillico, known for his comedy juggling act. After balancing the DCA hallway sign on his chin, Civillico recruited audience members to help him demonstrate some juggling basics. He next showed off several combo tricks involving spinning plates, rings, balls, a balance board, and, improbably, a bowling ball, apple, and meat cleaver, and serve as mounting assistants for a



Ethan Tippetts, Jeff Civillico



Caleb Scheve

hilariously awkward stunt on a very tall unicycle. Finally, after Civillico talked about how he started juggling as a child, he enlisted a 9-year-old to perform a spinning plate trick and finished with a mesmerizing glow-in-the-dark juggling finale.

DCA Executive Vice President Rob Darden then began the Town Hall where he announced the new committee structure was implemented to promote more member engagement. Two committee meetings will run in parallel to be more productive and in a u-shaped format to encourage interaction. Each meeting will be held on Microsoft Teams for committee members not in attendance to participate virtually.

Darden then announced the fall debut of the redesigned DCA website and online member directory, as well as the new Strategic Leadership Development Program (SLP), a grad-level extension of the current Leadership Development Program. Changes to the staff will be coming as well — Director of Administration Teri Korson and Director of Meetings Becky Hopkins will be retiring next year after many years of service to the DCA, and the new Assistant Director of Meetings & Events Katie Grandel attended her first Mid Year Meeting as she learns the ropes from them. The new Director of Membership position is expected to be filled later this year.

Construction Remains Central to U.S. Economy

The business session speaker was Chris Daum, President and CEO of FMI Corporation, which provides consulting, investment, and research services to the engineering and construction industry. Daum pointed out that everyone who drove up Highway 99 to Whistler passed the site of the future first near-zero-carbon LNG facility, which will be driven by hydro-electric power.

Over the last decade, Daum said, construction has been one of the strongest parts of the economy. Employment has recovered to pre-2008 levels and is actually higher as a percentage of the total workforce, but smaller as a percentage of GDP due to lack of improvement in productivity and margins.

Gas distribution in particular is having a “your baby is ugly” moment — only data center construction has matched its 20 consecutive years of growth, but gas isn’t “sexy” because of the concern over climate change.

Recession Ahead? Signs Still Strong for Energy

Daum observed that interest rates, high public debt, and other signs have many executives expecting a recession in the near future. He cited statistics showing that whether there’s a Democrat or Republican in the White House has almost no bearing on the economy,

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Rob Darden



Mark Albert

but divided government moves the wheels forward more reliably. Items that will likely affect business soon will be dismantling of regulations if Republicans gain power, and massive litigation over the Supreme Court's 2024 *Loper Bright Enterprises v. Raymond* ruling that says only courts can interpret laws, not agencies.

Overall, Daum expects continuing growth in the energy industry and believes that fossil fuels will remain important for at least another 50 years as the "new economy" (digital, AI) increases energy demands. The gas industry should be able to weather both a downturn and social pressure, ultimately enabling a greener future.

Future Leaders, Trenchless & HDD Committees Float New Ideas and Plans

First up under the new schedule were the Future Leaders and Trenchless & HDD committees.

The Future Leaders committee introduced Laura Mason of Caterpillar Inc. as the incoming co-chair, replacing Sarah Mahlik of TT Technologies, followed by the nomination and confirmation of Caleb Scheve of Price Gregory Int'l for the new position of secretary.

The committee then discussed a variety of topics: the new scheduling format, identifying the succession of DCA company representatives, the committee charter, the first-timers lunch at the convention, and visibility on social media. Mahlik and Mason, who both attended the Leadership Development Program (LDP), gave it very positive reviews. Mason also proposed establishing a formal connector program, with a contractor and

associate assigned to each new attendee to help them assimilate, sparking an extended discussion. The meeting concluded with a recap of the formal process for joining the committee and the suggestion to record and post the meetings on Teams for reference, exposure, etc.

Meanwhile, the Trenchless & HDD Committee appointed its first secretary, Javen Moore of Ditch Witch. Members then proposed the need for an action plan to drive action and progress within the committee, and there was a call to redefine the core mission statement of the group and to focus on education and professionalism within the industry. Randy Peterson, Wyo Ben, reviewed the completion of the long-awaited drilling fluids study and emphasized the importance of effectively communicating the findings to the public. One member recommended getting smaller companies involved in initiatives to advance trenchless HDD, which generated a discussion about barriers to entry and possible ways for the committee to reach out.

The committee then delved into the pivotal role of directional drilling in generating revenue for the organization, emphasizing the need to protect this activity through legislative measures like the PIPES Act. The subject then turned to the importance and complexities of planning for smaller rigs in the industry, and how to incorporate knowledge and experience from bigger pipelines.

During a presentation on depth and terrain profiling, Siggie Finnsson of Digital Control introduced a tool called TerraTrac, which is designed to simplify the process



Chris Daum

of creating a board plan. The discussion touched on the limitations of traditional bore plans versus those of TerraTrac and emphasized the advantages of constant terrain mapping.

Finally, the committee proposed a homework assignment for committee members: listing initiatives for driving results in trenchless and HDD. Those ideas will be prioritized in the future.

Afterward, members split off for the afternoon to enjoy activities including golf, ATV/UTV rides, rafting, hiking, bear viewing tours, and one of the world's longest gondola rides between peaks high above the village. That evening, many returned for an informal gathering on the hotel lawn to enjoy drinks and ice cream while recounting the day's adventures.

New Committee Meets for First Time

Tuesday, the new Innovation and Technology Committee, whose formation was inspired by tech talk at the Hawaii convention, held its inaugural meeting. The committee's mission is to promote tech solutions that can revolutionize the industry, and its scope of work comprises research and evaluation, collaboration, education and awareness, standards and guidelines, pilot programs, and risk management.

Following the approval of Jonathan Tippitts of Isco Industries as secretary, the group discussed near-term objectives. Some members recommended distinguishing

between technology and equipment, starting with AI, or including a safety group. Others suggested keeping in mind theoretical versus practical applications and helping people to do their job better. The committee also discussed making technology easier to use and tying it to industrial solutions, bridging the tech divide with younger workers, reducing paperwork for field crews, and reducing injuries from high-energy equipment.

The committee is contemplating whether surveying DCA members will help with its goal setting.

The Role of Engagement

Renamed to reflect a shift to include keeping current DCA members active and in good standing, the Membership and Engagement Committee approved Corey Lee, Vermeer Corporation, as secretary then discussed a wide range of topics, including the process for joining the DCA Board of Directors, virtual meeting plans, membership statistics, updates to the charter, and ideas for the proposed mentorship program. One member suggested creating a dashboard to track membership progress, and a call went out for volunteers to form subcommittees for membership retention, recruitment, and regaining. The imbalance between contractors and associates on the committee was also noted, with the recommendation to add more contractors.

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Retaining Employees, Engaging Younger Generations

The Workforce Development Committee introduced new co-chair Greg Sander, ARB Inc., and talked about the position of secretary, though no nominations were put forward. The group also discussed the LDP and SLP, with Sander, an LDP graduate, pointing out that companies investing in their employees enhances retention and can be more cost-effective than onboarding new staff.

On the subject of SkillsUSA and engaging younger generations, the committee noted that the "Success Looks Like This" videos have been very helpful. Members suggested modeling talent-sharing programs after the successful initiatives created by utilities and training high-schoolers before they graduate. The committee noted that working with high school counselors hasn't been fruitful so far but working locally remains more effective than trying to mount national efforts.

New Safety Initiative, Changes Under Consideration

The Safety & Risk Management Committee began with a review of its mission statement then briefly highlighted the successful recent Safety Congress. The committee then introduced a new initiative on operational excellence, aiming to disseminate information to field employees and promote continuous improvement in safety practices. This was followed by a discussion regarding the importance of recognizing safety excellence at the foreman level and engaging smaller contractors in the committee's initiatives.

The group agreed with Kelsey Moreland of Precision Pipeline LLC, who advocated for evaluating safety award nominations based on response to specific incidents rather than just TRIR and DART. Finally, the committee considered a suggestion to increase the number of Safety Congress events to two, to accommodate different audiences.

Welcoming New Leadership to Government Relations Committee, Impact of Fly-Ins

The Government Relations Committee introduced new co-chair Ed Fitzgerald, of The Hallen Construction Co., Inc. who attended virtually, and appointed Ken Hugen, RDO Equipment Co., as secretary before jumping into the subject of regional fly-ins. The DCA has so far conducted 15 visits in 15 states in the Midwest and Northeast, and several others have been scheduled. The primary goal is to get the Pipeline Safety Bill passed by the end of the year and to work around poison pills.

DCA President Mark Albert of AGI Construction gave an impact statement on the effectiveness of the fly-ins and the group spent some time on the specifics of meeting organization. The committee then reviewed the history of the PIPES Act since 2020, noting passage this year could be prevented by repeated and ongoing attempts by both parties over the years to make the bill unpalatable to the other side.



The committee is focusing this year on the Senate Commerce Committee, damage prevention provisions, and pipeline sabotage, noting that political staffers don't react to property destruction, but the health and safety of protestors raises some eyebrows. Concerns were raised about the progress of the Infrastructure Protection Coalition and the "Buy American" clause holding up some projects. An update on PSMS followed, with contractors advised to adopt their own PSMS program before it becomes a requirement (and reminded that DCA can evaluate their program if desired.)

The committee expects 2025 to be a big year for tax reform and is encouraging DCA to actively lobby on the issue. The group also discussed how the Supreme Court's Loper ruling overturning decades of precedent may impact how fast projects get done in the future under new layers of red tape.

An Impactful Time for DCA

After an afternoon of outdoor activities that included fly fishing, kayaking, and a craft distillery tour, members gathered again in the ballroom for the closing dinner.

The room sported wood bar tables and stools, arcade and carnival games, gaming tables for cards and shuffleboard, and a party makeup booth. A caricature artist gave patrons fun drawings to show back home, and a magician went from table to table demonstrating sleight of hand as guests chowed down on BBQ, burgers, hot dogs, and other classic cookout fare. The long trip back to the airport home didn't discourage members from enjoying Canadian hospitality as late as possible one last time.

The Mid Year Meeting made even more clear what started with the convention in Hawaii: 2024 is turning out to be a consequential year for the DCA. With the pandemic in the rear-view mirror and a world in greater flux than at any time since the 1960s, the DCA has committed to changing with the times and embracing the future in ways that aren't often easy for professional organizations with more than six decades of history. There was a confidence in the air at Whistler that the DCA is making the right moves at the right time, and we hope to see that continue when the DCA convenes again in Boston, Oct. 23-25, for the Fall Meeting. ▲









Committee News

July 14 - 17, 2024 Meetings



2024 Mid Year Meeting

The DCA Board of Directors and the seven working committees met July 14-17 during the DCA Mid Year Meeting at The Fairmont Chateau, Whistler, British Columbia. The working committees introduced a new structure where two committees meet simultaneously and a virtual component allows members to join in through Teams.

2024 Board of Directors

The 2024 DCA Board of Directors met on Sunday, July 14.

- Board members reviewed the agendas and new format for the working committees meeting during the Mid Year Meeting. The board reviewed the charge and mission for the new Innovation & Technology committee, set to meet for the first time on Tuesday, July 16. The directors also reviewed and approved an Operational Excellence Program that will be incorporated into the Safety & Risk Management committee over the next year.
- The Board heard updates on the Fall Leadership Development Program (LDP) and the new graduate Strategic Leadership Program (SLP).

Registration for the Fall LDP is open. Details are on the DCA website at <https://dcaweb.org/page/DCALeadershipDevelopmentProgram>. The SLP will be for the graduates of the three recent LDPs and will be held December 10-11 in the Hyatt Regency DFW, Dallas. Registration will open September 1 and will be limited to 25 attendees.

- Convention sites for 2028-31 were also approved, pending successful contract negotiations. The exact dates and hotel locations will be announced on the DCA website and the DCA News.
- The Board was introduced to the new website design and saw samples of the new online directory. Both will be launched in late August.
- The Board also discussed the transitions expected in DCA staff over the next year with the pending retirement of Becky Hopkins and Teri Korson, and the hiring of a new Director of Membership.

Leadership Council

The Leadership Council also met Sunday, July 14. The council reviewed the actions of the Board of Directors at their earlier meeting. Each DCA working committee

chairman briefly outlined the topics their committee would discuss in their individual meetings.

The Leadership Council comprises the elected chairs and co-chairs of each of the committees and the DCA

Board of Directors. The purpose of the Leadership Council is to coordinate the strategic direction of the DCA, as directed by the Board of Directors.

Future Leaders Committee

The Future Leaders committee met Monday, July 15, to discuss various topics related to the pipeline industry:

- **Succession planning** – The group discussed the need for succession planning within companies to ensure consistent attendance and growth at DCA events. The committee emphasized the importance of mentoring and encouraging future leaders to attend DCA events consistently to build relationships and contribute to leadership positions.
- **Mentorship and advisor** – The committee would like to create a formal connector program to assist members in connecting and feeling more comfortable at DCA events. The aim is to create a more inclusive and welcoming environment for both new and long-time attendees.
- **LDP** – Committee members were encouraged to attend or send personnel to the upcoming LDP. Co-chair Laura Mason of Caterpillar and outgoing co-chair Sarah Mahlik of TT Technologies had attended early programs and emphasized the leadership skills they learned and have taken back to their organizations.

The charge of the DCA Future Leaders Committee is to cultivate and engage a community of emerging leaders within the gas distribution industry. Through networking, outreach, and professional development opportunities, the committee aims to equip its members with the skills and knowledge necessary to succeed in their current roles and advance their careers, as well as advance the culture of the DCA. Co-chairs are Elizabeth Michels of Michels Corp. and Laura Mason of Caterpillar Inc. Caleb Scheve of Price Gregory International serves as secretary of the committee.

Trenchless & HDD Committee

The Trenchless & HDD committee met on Monday, July 15. The session featured a speaker presentation from Soggi Finnsson of Digital Control. Finnsson discussed the complexities of depth and terrain in trenchless operations, emphasizing the impact on steering decisions and the challenges of navigating utilities.

Other notable items included:

- **Drilling fluids** – Committee members discussed the completion of studies on drilling fluids. The results need to be effectively communicated to the public to increase awareness and understanding.
- **Initiatives and outreach** – The committee emphasized the importance of examining the trenchless charter and determining initiatives to advance trenchless HDD. Smaller companies need to get involved in the DCA and the industry. Committee members were asked to send action items to the co-chair Nate Eastway no later than July 31. The committee co-chairs and secretary will review the submitted initiatives and send a survey for the committee to rank their top choices.
- **DCA Fall Meeting** – Sam Hall of DPI will present at the October 24 meeting in Boston. An OEM panel on new technologies is being developed. Interested members should contact the chairmen. USDOT Gas Pipeline Committee (GPAC) member Dr. Sam Ariaratnam will give an update in October.

The charge of the Trenchless & HDD committee is to support safety, training, technical developments, and voluntary operational guides that sustain professional practices and contractors in the trenchless industry. Co-chairs are Nate Eastway of Gabe's Construction Co. and Alan Goodman of HammerHead Trenchless. Javen Moore of Ditch Witch serves as secretary of the committee.

Membership & Engagement Committee

The Membership & Engagement committee met Tuesday, July 16. Topics included:

- **Membership summary** – Attendees reviewed the membership report presented to the Board of Directors. Since the February meeting, five new contractor members have joined DCA. No associate members have joined. Four contractor and four associate members have dropped, resigned, or merged with other members. As of the meeting, the current membership is 84 contractor members and 105 associate members.
- **Recruit/Regain/Retain initiative** – This will be the focus of a new sub-committee. The committee discussed creating an incentive program for new members and encouraging companies that have only one employee participating to send two to upcoming meetings and events.

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- **Mentorship program** – Committee members emphasized the importance of the mentorship program for new members and attendees, particularly at the convention. Some first-time attendees are now attending DCA Mid Year after attending the LDP.
- **DCA equipment study** – Increased participation in the annual DCA Equipment Study was decided as an action item. Participation has been dropping for the last few years, with only active contractors completing the survey. The results of the study are valuable to the associate members to justify their membership and level of involvement in the DCA.

The charge of the Membership & Engagement committee is to actively solicit and evaluate potential DCA members and make recommendations on member programs and awards to help recruit and retain members in the Association. Scott Cooper of Caterpillar and Kwynn Kirby of American Augers serve as co-chairmen of the committee. Cory Lee of Vermeer Corp. is the secretary.

Innovation & Technology Committee

The newly created Innovation & Technology committee met for the first time on Tuesday, July 15. Members reviewed and updated items from the initial committee proposal.

- **Mission statement** – The committee is dedicated to fostering the integration and advancement of technology within the distribution contracting industry. The committee aims to explore, evaluate, and implement cutting-edge technologies to enhance efficiency, safety, and sustainability across our member organizations.
- **Objective** – The objective is to identify, assess, and promote technological solutions that can revolutionize the distribution industry. This includes but is not limited to the integration of AI, automation, data analytics, and other emerging technologies that can drive operational excellence and competitive advantage for DCA members.
- **Scope of the committee** – Research and evaluation, collaboration, education and awareness, standards and guidelines, pilot programs for selected technologies, and risk management.
- **Next meeting goals** – The committee decided the most important is to create a questionnaire to determine pertinent topics to explore. Suggested topics included engaging the younger workforce in technology adaptation, streamlining processes for field crews using technology, and utilizing AI and technology for safety in the field.

The charge of the Innovation & Technology committee is to explore, evaluate, and implement cutting-edge technologies to enhance efficiency, safety, and sustainability across member organizations and within the industry. Stephanie Krabbe of InfraSource and Mike James of ISCO Industries serve as co-chairmen of this new working committee. Jonathan Tippetts of ISCO Industries is the secretary.

Workforce Development Committee

The Workforce Development Committee met on Tuesday, July 16. The meeting provided updates on various industry events and initiatives.

- **LDP** – Attendees received an update on the 2024 LDP. Attendees were reminded that registrants must attend all dates to benefit fully from the program. Registration is open for the October event and limited to 25 participants.
- **CEWD Workforce Development Summit** – This event, November 19-21 in Washington, D.C., brings hundreds of industry professionals together for critical conversations and action-focused dialogues about developing a skilled, diverse energy workforce. Programming is for everyone whose role touches workforce development – operations, HR, DEI, talent acquisition, data analytics, workforce planning, ERGs, educators, state energy workforce consortia leaders, and others.
- **Second chance employment program** – There was a discussion about a second chance employment program, which involves partnering with the Department of Corrections to train and hire individuals with criminal backgrounds for utility construction work. The program emphasizes giving these individuals a second chance and has demonstrated success in hiring from similar programs in the past. The committee also expressed interest in exploring the potential roadblocks and benefits of this program for the organization.
- **Vocational education and workforce development** – Committee members had a deep discussion about the New York State Board of Cooperative Educational Services (BOCES) program, noting the changing attitudes of high school students toward field jobs.

The charge of the Workforce Development committee is to develop, coordinate, and implement strategies to support the growth of the expanding work force within the industry. The committee accomplishes this through the promotion of the industry as a career by using the vast knowledge and leadership of the DCA membership and promoting coordination with other industry

professionals and national organizations. Greg Sander of ARB Inc. and Matt Dvorak of Groebner co-chair the committee. Denis Graves of Grace Industries is the secretary of the committee.

Safety & Risk Management Committee

At the Tuesday, July 16, Safety & Risk Management committee meeting, committee members had a brief discussion on revising the annual benchmarking study and the operational excellence document.

- **Benchmarking study update** – The annual DCA Safety Benchmarking Study was created and implemented in 2009, and changes need to be made to bring it up to new industry standards. A survey link was sent to DCA member safety personnel asking for their input to update the study. The results were included in the meeting material. The survey results will be sent to committee members requesting their individual input. A Teams meeting will be scheduled to go over the results of the committee input and to finalize the new benchmarking study. The annual DCA Safety Benchmarking Study is sent to DCA safety directors in late February and the anonymous results are sent to participants in early May.
- **Operational excellence** – James Carithers of Peak USG introduced an operational excellence proposal. Many of the eight proposed elements are tied to the Safety & Risk Management Committee. The core areas to be implemented are safety culture, stakeholder excellence, learning & development, operational controls, repairing and insights, asset management, assurance, and risk management.
- **Committee leadership** – Former co-chair Randy Bunch, Eastern Utilities Services, was thanked for his two years of service to the committee.

The charge of the Safety & Risk Management committee is to review all information concerning safety in the industry and safe jobsite practices. The committee also oversees the Arthur T. Everham Safety Award and the Annual Safety Congress. Caleb Scheve of Price Gregory Int'l and James Carithers of Peak USG are co-chairs.

Government Relations Committee

The Government Relations committee rounded out the two days of working committee meetings. Committee members received updates on several pertinent topics at their Tuesday, July 16, meeting. For more details about government relations topics, see the *DCA Insights* section of the *DCA News*.

The Government Relations Committee meeting began with a discussion of goals for the upcoming regional fly-ins. The committee highlighted the necessity of member involvement in advocating for the industry at legislative levels and the importance of educating legislators.

The committee reviewed their successful engagements with officials in key states, focusing on topics such as the PIPES Act and damage prevention. They stressed the significance of state-level legislative influence and the role of regional meetings in establishing relationships with legislators. The discussion also covered the history and status of pipeline safety bills, the impact of climate issues on the debate, and the challenges related to fuel choice and permit reform. The DCA proposed adding 13 leading practices to the bill, such as standardizing a one-call ticket, identifying and limiting exemptions, and implementing modern technologies. The committee recognized the need to advocate for legislative language that supports these initiatives and the importance of incentivizing states to adopt these practices. Members also expressed concern over the limited public awareness of the 811-damage prevention process and stressed the need for ongoing education.

The committee also addressed various programs and legislation pertinent to public gas work, including the Buy America clause and the Infrastructure Protection Coalition. Members emphasized the importance of state-level involvement to advance legislative issues and the potential influence of state legislation on public support. The upcoming tax reform was discussed, with a focus on its potential effects on corporate tax, capital gains, and the estate tax. The committee considered the value of active participation and the review of letters from other coalitions before endorsing them.

The charge of the Government Relations committee is to target specific regulatory and legislative items and report their findings through the following publications: *DCA Insights*, *DCA News*, and the DCA website. The co-chairs are Edward Fitzgerald, The Hallen Construction Co. Inc. and Matthew Patterson of Sharewell HDD. Ken Hugen of RDO Equipment Co. is the secretary of the committee.

The next board of directors and committee meetings will be in conjunction with the 2024 DCA Fall Meeting, October 23-25, at the Hilton Boston Park Plaza. ▲

If you are interested in becoming an active member of any of the working committees, please contact the DCA office.

**Register for the DCA Fall Meeting
Boston Park Plaza, Boston, MA
October 23-25, 2024**





Insights



Reversal of “Chevron Deference” Changes the Game for Federal Regulations.

Supreme Court Says Statutory Language, not Interpretation, Counts More than Ever.

The regulatory process has traditionally consisted of an executive branch agency proposing a federal regulation, inviting public comment, holding public hearings on the proposal, and crafting a final rule based on feedback from Congress, other government entities and the general public. When a federal regulation is challenged in court and the statutory language is not clear, the courts have had to defer to the agency’s interpretation of the statute, based on a 40-year old landmark Supreme Court decision known as the Chevron deference doctrine. This has allowed agencies the freedom to develop rules without much fear of protracted legal battles.

All that changed June 28, when the U.S. Supreme Court overturned the Chevron rule, holding that courts **may not** defer to an agency’s interpretation of an

ambiguous federal statute. The Court said that from now on, judges “must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” when ruling on cases involving agency rules, regulations, guidance, or other actions when statute is unclear.

This essentially gives the courts – not administrative agencies – the power to say what the law actually is.

Epic Shift of Power to Judiciary

With a closely divided Congress, presidential administrations have increasingly turned to federal regulation to implement policy changes. Under the Chevron deference doctrine, courts had sometimes been required to defer to “permissible” agency interpretations of statutes those agencies administer, even when the reviewing court has a different take on the statute.

Specifically, Chevron had been used as a tool for courts to provide deference to administrative agencies when interpreting ambiguous statutory authority. It has

been the basis for upholding thousands of regulations by dozens of federal agencies but has long been a target of conservatives and business groups who argue that it grants too much power to the executive branch. Meanwhile, the Biden administration has defended the rule, warning that overturning the Chevron deference would be destabilizing and could bring a “convulsive shock” to the nation’s legal system.

The impacts of the Supreme Court’s decision will fall heavily on agencies that often regulate the construction industry, such as the Environmental Protection Agency (EPA) and OSHA, which have become increasingly aggressive and prescriptive in their regulations and enforcement actions. Now, agencies will have less power to mold their own agendas because courts will have the final say on whether the agency’s interpretation of the law should be upheld or struck down.

It’s important to note that unless a specific regulatory action is successfully challenged in court, nothing is stopping these agencies from continuing vigorous enforcement measures. In addition, while the recent ruling is widely considered a big win for conservatives, there are some negative implications to consider.

First, transition away from the Chevron doctrine will likely lead to a period of regulatory uncertainty, as courts reassess existing agency interpretations and not every agency action will be susceptible to the same kind of challenge as other agencies. Secondly, and perhaps more importantly, without a uniform deference standard, different courts in different states may interpret statutes in different ways, creating what may be a confusing patchwork of compliance requirements across the country. This will almost certainly be challenging for employers in the construction industry operating across multiple states.

This change should level the playing field for employers as agency actions are more effectively challenged in court. Construction employers and their advocates are now in a better position to push back against overly burdensome regulations and government overreach that could hinder business operations, such as OSHA’s proposed national heat safety rule (discussed below).

Agencies will likely spend more time writing regulations, especially when they’re acting under ambiguous statutes. In all likelihood, federal agencies will spend more time making sure statutory language is crystal clear and less time explaining why they interpret a statute they are charged with administering.

Initial Response

The U.S. Chamber of Commerce filed an amicus (“friend of the Court”) brief last year on behalf of American businesses arguing that modern application of Chevron has “fostered aggrandizement” of the executive branch at the expense of Congress and the courts. Meanwhile, environmental groups such as the Natural Resources Defense Council (NRDC) have said a ruling to overturn the doctrine could “free judges to be radical activists” who could “effectively rewrite our laws and block the protections they are supposed to provide.”

Following the decision, Sen. Eric Schmitt (R-Mo.) launched a working group with several fellow senators to assess how to implement the decision within the executive branch. The working group’s regular meetings also include discussion of how Congress can more effectively legislate on matters that would have been left up to agency deference.

The group is also looking to revisit past regulations, sending oversight letters to over 100 agencies, including the Transportation, Commerce, and Health and Human Services departments, along with the Food and Drug Administration (FDA) and the Securities and Exchange Commission (SEC), about final rules issued since 2000. The senators are asking those agencies for more information on ongoing rulemaking, civil enforcement actions and adjudications, as well as how the Supreme Court decision affects all of those actions moving forward. Those actions and others could be opened up to legal challenges if judges are allowed to discount or disregard the expertise of the executive-branch agencies that put them into place.

The full impact of the Chevron reversal is not yet known, and the construction industry shouldn’t expect any slowing of the Biden regulatory machine. Regulatory initiatives from EPA and OSHA will continue until there is a new administration. The Supreme Court just put agencies on notice that statutory language, and not agency interpretations after the fact, will count more than ever. It would be wise for many of these agencies to fully consider public comment when developing their rulemakings and get it right the first time, hopefully avoiding litigation and being subject to interpretations from the judicial branch.

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OSHA Proposes Heat Exposure Rule

America is experiencing sometimes dangerous heat waves, and construction work in intense climates can be hazardous. At the same time, President Biden is doing everything he can to get as many priority regulations out the door before the end of his presidency and an uncertain outcome of election 2024.

In early July, OSHA issued a proposed rule requiring employers to develop a detailed heat injury and illness prevention plan (HIIPP) to mitigate heat-related hazards in the workplace.

HIIPPs would require employers to monitor for heat risks on job sites, designate a heat safety coordinator, train employees, provide access to water and shade, and clearly communicate the plan in every language spoken on the job. HIIPPs would go into effect when temperatures reach 80 degrees Fahrenheit; the rule also calls for more actions to protect workers when a high heat trigger of 90 degrees Fahrenheit or hotter is realized.

Over the past couple of years, OSHA used its National Emphasis Program to reinforce its "Water, Rest, Shade" guidance for workers in high temperatures. Under the current "general duties clause," employers are required to provide workers with an environment free from hazards. Until recently, protecting workers from intense heat has fallen under that standard.

In addition, several states already have heat illness prevention standards, including California, Minnesota, Oregon, and Washington. On top of all this, most companies (certainly DCA members) recognize high temperatures can pose health hazards to employees, and they already employ various methods to avoid heat illness.

The proposed standard would not apply to workspaces or vehicles where "air conditioning consistently keeps the ambient temperature below 80°F." For indoor and outdoor heat hazards (below 80°F), employers would be required to regularly monitor temperatures at the work site and implement control measures.

The onus of acclimatization

The proposed standard also includes acclimatization requirements for workers not accustomed to heat because they are new to the job or have been away from the job for more than 14 days. On top of that, it calls for gradually increasing new employees' exposure to heat over time, starting with no more than 20 percent of a normal work shift exposure on the first day and ramping up to 80 percent by the fourth day of work.

The acclimatization aspect is a major concern in industry. How are employers to build a process that would schedule and keep records of employee heat exposure during daily operations?

The proposed rule also requires employers to allow and "encourage employees to take paid rest breaks," which adds more uncertainty. Other questions about how the new rule might apply to temporary workers who are already accustomed to hot working conditions from a previous job, such as in the construction industry, are only increasing.

OSHA representatives realize that the proposed rule will be met with stiff opposition and there is no shortage of legislative ways to defeat it. Nevertheless, the contend that the proposal will provide employers a better sense regarding OSHA expectations when it comes to heat exposure.

Depending on how the election goes in November, executive action to throw a final rule out could be in play on day one of another Trump administration.

Bipartisan Permit Reform Measure Introduced by Senate Energy Leaders

The need to update and update and streamline the grueling process of permitting for critical infrastructure projects is a longtime priority among supporters of American energy, especially advocates of infrastructure transporting natural gas. Over the years, permit reform has become increasingly partisan. The push by industries and their Congressional allies to expand and improve infrastructure systems — especially related to fossil fuel transport — has been met with resistance a call for stronger regulations in the name of public safety and environmental protection.

The Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA) that followed it are injecting hundreds of billions of dollars in infrastructure investment and in clean energy manufacturing and deployment across the country. However, despite this momentous injection of critical federal dollars in a range of infrastructure markets, the permitting process continues to choke opportunities to update our energy infrastructure.

While there has been no shortage of policy proposals to streamline federal permitting, the fact that new renewable energy projects will benefit from an improved permitting process have transitioned permit reform into a bipartisan issue. In July, two energy leaders in the U.S. Senate introduced the bipartisan "Energy Permitting Reform Act of 2024" (EPRA), aimed at updating and improving federal permitting processes.

Judicial Review, LNG Exports, Project Timelines Under the Microscope

It's no secret that current permitting processes are lengthy and complex, leading to significant project delays. This is especially true when constructing natural gas pipelines, where delays hinder the timely delivery of energy and can interfere with supply chains and market stability. Project interruptions have exacerbated supply chain problems in the wake of the Covid-19 pandemic, where formidable workforce capacity challenges, materials and supply shortages, and other impediments to refurbishing American infrastructure plagued construction and manufacturing industries.

Litigation is usually the basis for most of these delays, which is why judicial review is an important part of this bill. EPRA would shorten the timelines before, during, and after litigation related to a wide range of federal authorizations for energy projects, without changing any existing rights to pursue legal challenges.

Specifically, the legislation would establish a 150-day statute of limitations from the date of a final agency action on a project and would require courts to expedite review of legal challenges. EPRA would also set a 180-day deadline for federal agencies to act on suspended or revoked permit authorizations.

Importantly, the bill would also end the shortsighted ban on liquefied natural gas (LNG) exports set by the Biden administration earlier this year. EPRA would set a 90-day deadline for the Department of Energy (DOE) to grant or deny LNG export applications following environmental reviews, with applications deemed approved if DOE fails to meet that deadline.

The legislation would accelerate leasing and permitting decisions for all types of energy projects on federal lands without sidestepping existing environmental and land-use laws. It would also require the federal government to hold at least one offshore wind lease sale and one offshore oil and gas lease sale every year for the next five years, which will help ensure that both offshore wind and offshore oil and gas leasing will be afforded between now and the end of the decade.

Other provisions would facilitate construction and expansion of interstate electric transmission lines and hydropower systems.

Recognizing the stubborn partisanship in an unpredictable election year and the limited time remaining in the 118th Congress, the chance of enacting robust permit reform legislation will be an uphill journey. The bill may be used as an end-of-congress bargaining chip, or will set the state for next year's permit reform debate.

Overall, energy permitting reform is necessary to balance the need for numerous environmental and safety reviews with the demand for timely and cost-effective development of energy infrastructure. This balance will be essential for maintaining energy reliability, affordability, and environmental protection in the future. ▲



Eben M. Wyman
Principal
eben@wymanassociates.net

**Save the Date for the DCA Annual Convention
Fairmont Scottsdale Princess
Scottsdale, Arizona
February 24 – March 1, 2025**



Calendar

2024 & 2025 DCA & Industry Events

2024

SEPTEMBER 25-27

HDD Rodeo
Independence, Missouri
www.hddrodeo.com

SEPTEMBER 30 - OCTOBER 2

DCA Leadership Development Conference -
Session 1
Hyatt Regency DFW International Airport
Dallas, Texas
www.dcaweb.org

OCTOBER 23-25

DCA Fall Meeting
Hilton Boston Park Plaza
Boston, Massachusetts
www.dcaweb.org

OCTOBER 28-30

DCA Leadership Development Conference -
Session 2
Hyatt Regency DFW International Airport
Dallas, Texas
www.dcaweb.org

DECEMBER 9-12

DCA Strategic Leadership Program
Hyatt Regency DFW International Airport
Dallas, Texas
www.dcaweb.org

2025

FEBRUARY 4-8

2025 PLCA Convention
Marriott Marco Island
Marco Island, Florida
www.plca.com

FEBRUARY 24 - MARCH 1

DCA Annual Convention
Fairmont Scottsdale Princess
Scottsdale, Arizona
www.dcaweb.org

MARCH 24-26

DCA Safety Congress
Hyatt Centric, French Quarter
New Orleans, Louisiana
www.dcaweb.org

JUNE 23-27

SkillsUSA TechSPO
Georgia World Congress Center
Atlanta, Georgia
www.nlsc.skillsusa.org

JULY 14-17

DCA Mid Year Meeting
Grand Geneva Resort & Spa
Lake Geneva, Wisconsin
www.dcaweb.org

OCTOBER 29-31

DCA Fall Meeting
Gaylord Texan Resort & Convention Center
Grapevine, Texas
www.dcaweb.org

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So you do not miss out on future meeting and event notices, please have your company's IT representative whitelist all emails from dcaweb.org. If you have any questions, please contact Teri Korson at tkorson@dcaweb.org.

Member News



McElroy Manufacturing



John Deere

McElroy Museum Celebrates Company's History

McElroy Manufacturing hosted a ribbon cutting on June 19, 2024, to commemorate the opening of the McElroy Museum, located on the company's new 193,000-sq.-ft. Tulsa metro campus.

The McElroy Museum details the 70-plus-year history of the company, from its founding in 1954 to its latest cutting-edge products, culminating with the advent of the TracStar fusion machine and machines for the polypropylene market.

The museum is made up of a series of vignettes, each one showcasing a milestone in McElroy's history. This includes the first products designed by founder Art McElroy, the company's foray into fintube and butt fusion equipment, and the evolution of its digital and equipment offerings. Other vignettes show marketing material and promotional items from decades past.

"What you see here is a testament to the legacy of McElroy's commitment to quality and the relationships we've cultivated throughout our history," said McElroy president and CEO Chip McElroy. "We can't wait to share this experience with our channel partners, customers, and others who visit this campus."

McElroy's in-house creative team handled all aspects of the museum's design and execution.

John Deere Launches "Technology-Packed" Production Class Wheel Loaders

John Deere announced the launch of its latest production class loader offerings with the introduction of the 744 X-Tier and 824 X-Tier Wheel Loaders. Engineered with the demanding conditions of the construction jobsite in mind, these technology-packed loaders are an ideal solution for customers looking to benefit from unparalleled fuel efficiency, enhanced productivity and unmatched operator comfort.

"In a market where efficiency and sustainability go hand in hand, we are proud to lead the way with our E-Drive 744 and 824 X-Tier loaders as we continue to deliver new, innovative solutions for our customers," said Katie Voelliger, product marketing manager, John Deere.

"These production class loaders are not just about saving our customers downtime and costs associated with ownership, but they also embody our commitment to offering premium features, hybrid solutions and advanced technologies on machines of all sizes, including our large wheel loaders."

With a long history in offering hybrid machine solutions to the construction market, the new 744 and 824 X-Tier loaders feature the John Deere exclusive Electric Variable Transmission (EVT) E-Drive system.

Both models will feature a JD9 diesel engine as the primary power source, however, the torque converter and traditional transmission have been replaced by the EVT system, offering more efficiency.

In addition, the E-Drive component provides instant power, while simplifying operation and reducing complexity. These machines not only boast significant reductions in annual fuel costs due to their hybrid design, but also, enhanced productivity features ensure up to a seven percent total cost of ownership lifecycle advantage over conventional drive systems.

Focusing on cab comfort, operators can expect a quieter cab environment attributed to the constant engine speed. Further enhancing comfortability, customers can experience maximum comfort due to enhanced features including premium seats and an AM/FM radio with Bluetooth capabilities.

Also, if customers are hauling material over longer distances, like those seen in aggregates and roadbuilding applications, the addition of the Tire Pressure Monitoring System can help increase tire life and lower fuel consumption by ensuring tires maintain proper inflation throughout the day.

Improving awareness and safety, both models provide increased visibility and situational awareness. With the Advanced Vision System and Advanced Object Detection, operators can enjoy an improved range of view on both sides of the loader and better visibility beyond conventional mirrors.

Also, dynamic reversal projected path lines assist with visualizing the anticipated reversal path to ensure a better line of site. The deluxe LED lights on the 744 and 824 X-Tier also help amplify vision in tough-to-see settings.

In terms of controllability, the 744 and 824 X-Tier loaders provide unparalleled productivity through easier operation. Now equipped with John Deere exclusive Pile Slip Assist, operators can experience proactive differential lock ahead of pile engagement which reduces tire slip, improves bucket fill and lowers cycle time.

The EVT also reduces complexity by allowing for a more instantaneous response with fewer operator inputs and the use of one pedal for operation.

Lastly, both models offer two fuel efficient operational modes including Standard Mode and Performance Mode. Default Standard Mode delivers up to 25% reduced fuel consumption while keeping sustainability a priority and ensuring productivity. Performance Mode makes productivity the top priority with 5% increased performance and 15% reduced fuel consumption.



Ziegler CAT

Ziegler CAT Unveils the New, Next Generation CAT Compact Track Loader at Minnesota Open House

At the Monticello, Minnesota, branch's open house, Ziegler CAT introduced customers to the new 255 and 265 compact track loaders.

"Our customers have been waiting for these machines for quite a while now after news about them leaked out on social media about two or three months ago," Ziegler Territory Manager Travis McDowell said. "And they are anxious to get out here and check them out. It's a complete redesign of our machines, and this demo day gives our guys a chance to get in them and around them."

The compact track loaders have new features and capabilities such as a lift height of 11 feet for the 265, increased engine torque (up 13 percent for the 255, up 43 percent for the 265), larger operator's station (22 percent more volume), zero-service DPF, Software Enabled Attachment high flow, air ride suspension, and a redesigned undercarriage.

"These new machines have been built from the ground up with the customer in mind," said Mike Rymarz, the Caterpillar Inc. Sales Representative for Ziegler CAT. "We listened to a lot of feedback, and our engineers did a great job updating these machines from the customer's perspective as well as for the sales, service, and performance perspective — offering an all-around updated fit and feel for the CAT compact track loaders."

In addition to getting a first look at the new 255 and 265 compact track loaders, those attending could check out all of the CAT machines and other manufacturer lines of equipment offered at Ziegler, plus enjoy a lunch and free giveaways.

With more than 100 years in the business, Ziegler CAT has 2,400 employees in 29 locations in Minnesota and Iowa, making it one of the largest CAT dealers in North America.

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**The Power of Partnership and Training:
GROEBNER's Impact on the PA12 Project**
GROEBNER played an instrumental role in the PA12 project at Gas Utility District #1 in Zachary, Louisiana,

which was recently honored as the 2023 Plastic Pipe Institute's Project of the Year. This accolade reflects the collaborative efforts and innovative solutions provided by GROEBNER and its partners, Evonik and Teel Plastics, ensuring the project's success.

Project Background:
The project took place right outside the entrance of the Baton Rouge Zoo. The existing steel Creek crossing, which was above ground, had multiple layers of cover and coatings. Over the years, natural deterioration and creek erosion made it necessary to replace the aging structure. Given the limited ditch space and complexities associated with another above-ground installation, Hydraulic Directional Drilling (HDD) was chosen as the best solution. PA12 was selected for its strength, flexibility, and cost-effectiveness, eliminating the need for cathodic protection. Developed by Evonik, PA12 offers superior impact resistance, anti-corrosion properties,



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and resistance to chemicals and heavy hydrocarbons, ensuring long-term safety and reliability. The PA12 gas pipe was manufactured by Teel Plastics, ensuring high-quality production standards were met for this critical application.

"The primary benefit is the cost savings in both project and ownership compared to steel," GROEBNER Product Manager, Ryan Ellis said. "The ease of installation is a plus, as it eliminates the need for cathodic protection. Directional drilling reduces disruptions, such as avoiding the need to open ditches, disturb water supplies, or close roads, saving both time and costs. Moreover, customers find the product user-friendly since it uses the same tools as polyethylene, easing their transition and reducing the fear of adopting new technology."

GROEBNER's Multi-Layered Role:

Master Distributor

This project would not have come to fruition without GROEBNER's proactive approach and industry expertise. GROEBNER served as the distributor for the PA12 product and partnered with Evonik and TEEL Plastics on the project.

Technical Expertise and Support

The project originated from GROEBNER's presentations at the Louisiana Gas Association, showcasing PA12 as a new technology. GROEBNER and EVONIK worked closely with the customer to identify PA12 as the best solution and provided on-site training and support.

"We worked with the team, educated them on the product, and provided on-site consulting and support throughout the project. We looked at their fusions, helped to vet those fusions, and oversaw all of the pressure testing," Ryan Ellis said.

Key Project Challenges and Solutions:

Hydraulic Directional Drilling (HDD)

PA12 was chosen over steel due to its superior properties and suitability for HDD. The strength and flexibility of PA12, combined with its economic advantages, made it an ideal choice for this complex installation. The decision to use HDD allowed for a buried pipe solution, avoiding the costs and challenges associated with above-ground installations.

Overcoming Technical Challenges

One of the significant challenges was managing temperature fluctuations during pressure testing. The team had to demonstrate that the pressure drops were due to temperature changes fluctuating as high as 116 degrees during the day to 65 degrees at night and not actual leaks. GROEBNER's expertise was crucial in guiding the customer through these technical aspects, ensuring the integrity and safety of the installation.

Importance of GROEBNER's Expertise

GROEBNER's comprehensive knowledge and hands-on approach were pivotal in the project's success. From educating the customer on PA12 to providing on-site support, GROEBNER bridged the knowledge gap and ensured the project was executed correctly. This dedication to excellence sets GROEBNER apart from competitors, showcasing their commitment to quality and safety.

"We were impressed with the whole process, including the fact that all three parties (Evonik, Teel, and GROEBNER) took their time to come here and train and also be on site for the fusions and the installation and pressure test process," Thomas Smith from Gas Utility District #1 said. "We chose PA12 for multiple reasons. Its 250psi rating and the fact that we didn't have to use cathodic protection were the main reasons. But the cost-savings and time-savings with using PA12 vs. steel were incredible. We cut the welding time down by more than half and we didn't have to work in the roadway or need to impede traffic."

"The bottom line is everybody can move product, right? And some people move products better than we do. But if you want the right product moved the right way and installed the right way and have it done correctly, safely, all of those wonderful things, that's where our expertise comes in, right when it really matters," Ellis said.

Recognition and Impact:

The project's recognition as the 2023 Plastic Pipe Institute's Project of the Year highlights the innovative use of PA12 and the successful implementation using HDD. This award underscores the collaborative effort and technical expertise brought by GROEBNER. The project sets a benchmark for future projects, demonstrating GROEBNER's value in strategic distributor partnerships.

(continued on pg. 30)



CASE Construction Equipment

CASE Releases Industry's First Electric Backhoe Loader

CASE Construction Equipment has expanded its electric vehicle (EV) options for municipal crews, utility teams, urban construction, and other contractors with the commercial release of its 580EV, the industry's first electric backhoe loader.

CASE's EV backhoe loader will soon be followed by the commercial availability of two additional electric machines — the CX25EV mini excavator and the CL36EV compact wheel loader. The new equipment increases CASE's EV lineup to five models, including the previously launched CX15EV electric mini excavator and the SL22EV small articulated loader.

The electric machines offer crews zero-emission, low-noise solutions for a range of unique job site demands — from overnight construction to work in urban centers or other close-quarter environments where noise and emissions must be kept to a minimum. The expanded CASE EV offering matches the performance and power of its diesel counterpart while offering lower fuel costs and less maintenance.

"With the 580EV electric backhoe loader, we took an industry staple and designed it as a purpose-built EV to help crews meet increasingly unique job site demands and win more contracts on projects that prioritize sustainability criteria," said Terry Dolan, Vice President, North America, CASE Construction Equipment. ▲



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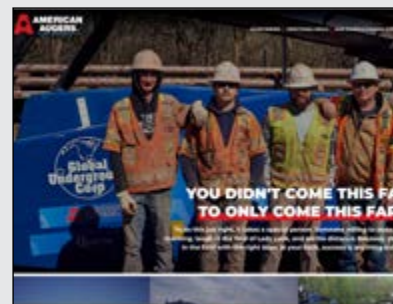
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Century Products is a privately held manufacturing and custom design firm serving the global HDD Industry. Their down hole tools are ideal for the diversified market segments they serve which include the oil and gas Industry, horizontal directional drilling Industry, water and sewer industry, the geothermal industries and also the mining industries. In addition, their exclusive product lines offer tools suitable for a diverse range of drilling rigs to ensure the proper tooling to outfit any size rig.



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