



STATE OF MICHIGAN

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GOVERNOR

DEPARTMENT OF ENERGY, LABOR, & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS
DIRECTOR

Michigan Occupational
Safety & Health Administration
(MIOSHA)

CONSTRUCTION SAFETY STANDARDS COMMISSION MEETING

December 2, 2009 - 9:30 a.m.
General Office Building, Room A
7150 Harris Drive, Lansing

MINUTES

COMMISSIONERS PRESENT:

Valerie Bradley

Lynn Coleman, Chairperson

Tapan Datta, PhD

Kathleen Dobson

Joe Gillespie

Patrick 'Shorty' Gleason

Don Hiltunen

Don Staley, Vice Chairperson

PRESENT VIA TELECONFERENCING

Gregg Newsom

DEPARTMENT PERSONNEL PRESENT:

Martha Yoder, MIOSHA Deputy Director

Marsha Parrott-Boyle, MIOSHA CET Grant Coordinator

Christine Hundt, MIOSHA Standards Section Departmental Analyst

Dena Hendon, MIOSHA Standards Section Departmental Analyst

Sharon Long, MIOSHA Standards Section Secretary

John Peck, MIOSHA MTSD Director

Robert Pawlowski, MIOSHA Construction Safety & Health Division Director

Ron Ray, MIOSHA Standards Section Acting Program Manager

Dennis Collins, MIOSHA Construction Safety & Health Division Safety Supervisor

VISITORS PRESENT:

Lee Graham, Operating Engineers Local 324

John Hartwell, Operating Engineers Local 324 and CS Part 10 Advisory Committee

Daryl Gallant, Michigan Laborers' Training & Apprenticeship Institute and CS Part 12 Advisory Committee

Terry Monahan, Michigan State University and CS Part 12 Advisory Committee

Mission Statement

The mission of the construction safety standards commission is to provide the leadership and vision necessary to ensure a safe work environment for the Michigan construction community.

The commission involves employees and employers in the development of safety standards as it endeavors to continually examine and improve those standards for purpose, clarity, applicability, enforceability, and cost effectiveness. It is our vision that we become a national leader in safety for industry by incorporating the changing needs of new technologies and methods into our standards.

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Agenda Item #1--Call to Order and Roll Call

Chairperson Lynn Coleman called the December 2, 2009 meeting to order. A roll call was taken and a quorum was present. Commission Newsom attended the meeting through teleconferencing. The Commissioners and staff introduced themselves.

Agenda Item #2--Approval of Minutes for September 23, 2009 Meeting

A motion was made by Commissioner Datta and seconded by Commissioner Gleason to approve the minutes of the September 23, 2009 meeting. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #3--Standards Section Update--Ron Ray, Acting Program Manager

Mr. Ron Ray reviewed the FY 09-13 strategic plan and the goals for the Standards Section in detail. He stated that MIOSHA is currently waiting for the regulatory impact statement for the proposed ergonomics standard. Ms. Christine Hundt gave a brief update on CS Part 2 Masonry Wall Bracing. Mr. Ray stated that CS Part 1 General Rules and CS Part 12 Scaffolds and Scaffold Platforms) is on the agenda and will be discussed later in the meeting. There will be no action taken at this time on CS Part 31, GI Part 79, OH Part 504 Diving Operations.

Ms. Marsha Parrott-Boyle reported on the CET grant program. She stated that there are 20 CET grant awardees. One of the unique items will be that one of the grantees will have a three-year term. There is an effort underway to be sure training is done for high school students to make them aware of occupational safety. The CET grants extend the amount of training that is given. She stated that some of the strategic training topics include: emergency planning, firefighter rescue, ergonomics, road construction, and construction onsite walkthroughs.

Those grantees doing construction training throughout Michigan include Alpena Community College, Associated General Contractors, and the Construction Association of Michigan. Eastern Michigan University will be offering an asbestos awareness course which will cover the nature of asbestos and lead. Michigan Construction Trades Safety Council will be producing a "MIOSHA Walkthrough for Construction" CD-ROM. Michigan Infrastructure and Transportation Association have a MIOSHA grant to develop specialized training sessions.

Commissioner Coleman wished Ms. Parrott-Boyle a happy birthday. He congratulated her on her new position as MIOSHA CET Grant Administrator. He thanked her for her past work for the commissions.

Agenda Item #4--Michigan OSHA Update--Martha Yoder, Deputy Director

Ms. Martha Yoder thanked Ms. Parrott-Boyle for all of the work she has done in the past years as the Standards Section Program Manager and for her willingness to step into her new role as Grants Administrator. Ms. Parrott-Boyle's new responsibilities not only include administering the CET grants but she is also responsible for the MIOSHA Leadership Institute which is an opportunity for emerging new leaders within MIOSHA to learn new skills. Mr. Ray will be acting program manager for the Standards Section; Ms. Yoder thanked him for taking on that role.

Ms. Yoder commented that MIOSHA does have a continuation budget in place so there will be no disruption in MIOSHA services. MIOSHA is still waiting for information on the OSHA budget increase.

At the September Commission meeting, Mr. Douglas Kalinowski announced that MIOSHA is starting a MIOSHA Training Institute (MTI) scholarship program with up to 50% of the tuition being given to attend a class. This program had a slow start but has picked up, and \$18,000 has been used thus far. The Tough Economic Times initiative was also reviewed by Mr. Kalinowski in September, but Ms. Yoder stated that a waiver of certain FOIA fees has been added to this initiative.

OSHA has completed a special review of Nevada's state plan. That review followed 25 workplace fatalities which led to concerns being raised by Federal OSHA. Federal OSHA will be completing special studies of more state programs including Michigan. The goal is to have all of the special evaluations completed by April 2010. This will include case file monitoring, field visits, and interviews with staff.

Agenda Item #5--Old Business

a. CS Part 1 General Rules--Additional Proposed Revisions--Robert Pawlowski. Mr. Robert Pawlowski discussed the need to include federal language in the definition for confined space as laid out in Rule 102(4) which addresses the "open top spaces more than 4 feet in depth such as pits, tubs, vaults and vessels" in order to be "as effective as" federal OSHA. He also expressed a need to clarify the language with regards to hand washing and shower facilities in Rule 130(3). Commissioner Coleman had a concern regarding the number of toilets facilities for males and females in Rule 129(1)(d) and (e). He stated that this language may be confusing and needed to be stated more clearly. Ms. Parrott-Boyle stated that the Rule 129 issue would be better handled at the Public Hearing stage of the rule promulgation process.

A motion was made by Commissioner Datta and seconded by Commissioner Gleason to approve the amended language as discussed in Part 1 General Rules, Rule 102(4) and Rule 130(3). **MOTION CARRIED UNANIMOUSLY.**

b. CS Part 10 Lifting & Digging Equipment--Advisory Committee Report--John Hartwell. Co-chairperson John Hartwell stated that this Committee is meeting twice a month. The Committee is addressing rigger and signalperson qualifications. He stated the Committee has done much research to identify the mechanisms being used for training. In the last four meetings, Mr. Hartwell stated the ironworkers, operating engineers, Michigan laborers, pipe fitters and plumbers, and boilermakers have done presentations. The Committee has also begun working on draft language. However, the Committee would like to ensure that the draft language for crane operator certification keeps moving through the promulgation process independently of the rigger and signalperson qualification issue.

c. A motion was made by Commissioner Newsom and seconded by Commissioner Dobson to move the draft language for crane operator certification forward in the promulgation process independently. **MOTION CARRIED UNANIMOUSLY.**

d. CS Part 12 Scaffolds & Scaffold Platforms--Advisory Committee Report--Dena Hendon. Ms. Dena Hendon reminded the Commission that they had received a letter nine years ago from the Michigan Construction Industry Mutual Fund requesting that CS Part 12 be changed to allow removable guard rails on rough terrain forklift truck scaffolds. At that time, an advisory committee briefly reviewed the issue. No agreement was reached and the issue was tabled. Earlier this year, this issue rose up the priority list and the advisory committee again commenced deliberation.

The Construction Safety and Health Division requested that the Advisory Committee review several additional issues, which were approved by this Commission. An Advisory Committee of five labor and five management representatives with one technical advisor was appointed. Serving as MIOSHA advisors were Dennis Collins from Construction Safety and Health Division and Jim Getting from Consultation, Education, and Training Division. The Advisory Committee met six times and reached a unanimous consensus on all their recommendations except one. Therefore, the Advisory Committee recommendations were presented in two parts.

Co-chairperson's Daryl Gallant and Terry Monahan reviewed the consensus recommendations for revisions in detail. They explained that the proposed rule is being updated to be "as effective as" OSHA and to clarify language and formatting. The proposed rule also goes beyond OSHA in the following rules:

1. In R 408.41210(11) it is understood that workers cannot stand on "buckets" but the Advisory Committee recommended finally putting that language into the rule.
2. In R 408.41233(9)(a) the newest ANSI edition is adopted which is what industry is using.
3. In R 408.41212(5) & (6) regarding power lines and safe clearances, language was added to be consistent with CS-32 Aerial Work Platforms. Also for consistency, definitions were added for "electrical qualified person" and "power line." This creates consistency between standards and avoids misunderstandings for employers and employees.
4. In R 408.41251, Table 4, Outrigger Size, the error regarding feet verses inches was corrected.

Co-chairperson Terry Monahan thanked the Committee for a great job and thanked Ms. Hendon for all of her hard work on this project

A motion was made by Commissioner Hiltunen and seconded by Commissioner Bradley to accept the proposed language recommended by the Advisory Committee and move the amended standard through the promulgation process. **MOTION CARRIED UNANIMOUSLY.**

Ms. Hendon reported that that the Advisory Committee could not find a consensus on the original issue brought forth by the Michigan Construction Industry Mutual Fund to allow for the removal of guard rails on rough terrain forklift truck scaffolds. The Advisory Committee drafted possible language to provide for this allowance plus several additional safety measures. Co-Chairperson Gallant explained the reasons against the proposed allowance and Co-Chairperson Monahan explained reasons in favor.

The Commissioners discussed several problems with this proposal including lanyard tie off points, qualifications of personnel, and the potential for crushing injuries. Commissioner Hiltunen stated that there may be legal issues associated with this. Commissioner Staley stated that there is an ergonomic issue and it would be challenging to write a rule regarding this. Commissioner Dobson asked if insurance companies provided statistics on injuries and what allowances there are for the gap between toe boards. Commission Gleason stated that companies have the option of requesting a variance for this work.

Commissioner Gillespie made a motion to accept the proposed language to remove guard rail systems on rough terrain forklift scaffolds. Commission Datta seconded the motion. Commissioner Gleason requested a roll call vote. **MOTION DENIED UNANIMOUSLY.**

Agenda Item #6--New Business

a. Representative Sarah Roberts' Proposal to Ban Dry Cutting of Masonry--Patrick Gleason. Commissioner Gleason thanked Representative Roberts for her concern on this issue. He stated that he has spoken with bricklayers and Ms. Roberts' aides regarding silica exposure during the practice of dry cutting cement and masonry materials.

A motion was made by Commissioner Gleason and seconded by Commissioner Newsom to send a message to the Occupational Health Standards Commission to address the hazards of silica exposures during dry cutting of masonry. **MOTION CARRIED UNANIMOUSLY.**

b. Advisory Committee Applications--CS Part 10 Lifting and Digging Equipment

The following applications to the CS Part 10 Lifting and Digging Equipment Advisory Committee were discussed by the Commission:

- Mr. Tuczak, representing management. Ms. Parrott-Boyle advised the Commission to also consider Mr. Tuczak for the CS Part 21 Guarding of Walking and Working Areas Advisory Committee.
- Mr. Zane Hubbard, representing labor. Mr. Hubbard would replace Mr. Sherwood who has resigned from the Committee.
- Ms. Connie Munschy would like her representation changed from labor to management.
- Mr. Lawrence Kruth would like his representation changed from labor to management.

A motion was made by Commissioner Newsom and seconded by Commissioner Dobson to appoint Mr. Tuczak to the CS Part 10 Advisory Committee and the CS Part 21 Advisory Committee as a management representative, to appoint Mr. Hubbard to the CS Part 10 Advisory Committee as a labor representative, and to change the representation of Ms. Munschy and Mr. Kruth to management. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #7--Construction Safety & Health Division Update--Robert Pawlowski, Director

Mr. Pawlowski gave a brief update on the progress towards strategic and performance goals, stating that all fatality investigations were initiated within 24 hours. There were ten fatalities to date in 2009: two struck-by, two crushed-by, two electrocutions, one explosion, one cave-in, and two falls.

He stated that MIOSHA has many partnerships in the construction industry including partnerships with the Christman Company, Barton Malow/Skanska, Detroit Edison, and Kamminga and Roodvoets.

Incident rates of non-fatal occupational injuries and illnesses in the construction industry in Michigan were discussed dating from 2000 to 2008.

Agenda Item #8--Election of Officers for 2010

Ms. Parrott-Boyle initiated the election of officers for 2010.

A motion was made by Commissioner Gleason and seconded by Commissioner Hiltunen to nominate Commissioner Staley as Chairperson for the Construction Safety Standards Commission for 2010. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Commissioner Coleman and seconded by Commissioner Hiltunen to nominate Commissioner Newsom as Vice Chairperson of the Construction Safety Standards Commission for 2010. **MOTION CARRIED UNANIMOUSLY.**

Commissioner Newsom congratulated Ms. Parrott-Boyle on her new position and thanked Chairperson Coleman for his work during the past year.

Agenda Item #9—Public Comment

There was no public comment as this time.

Agenda Item #10--Next Meeting

Mr. Ray stated that next the meeting is scheduled for February 3, 2010 in conjunction with the 26th Annual CAM Expo at the Rock Financial Showplace in Novi. Ms. Parrott-Boyle stated a new meeting schedule for 2010 is forthcoming.

Agenda Item #11--Adjournment

With no further business before the Commission, a motion was made by Chairperson Newsom and seconded by Commissioner Dobson to adjourn this meeting. **MOTION CARRIED UNANIMOUSLY.**

Don Staley
Don Staley, Chairperson

February 3, 2010
Date