



STATE OF MICHIGAN

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GOVERNOR

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

Michigan Occupational
Safety & Health Administration
(MIOSHA)

OCCUPATIONAL HEALTH STANDARDS COMMISSION MEETING

December 14, 2009--9:30 A.M.
7150 Harris Drive, Lansing
General Office Building, Conference Room B

MINUTES

COMMISSIONERS PRESENT:

Mr. Andrew Comai, Chairperson
Mr. Gary Novak, Vice Chairperson
Mr. Jim Cianciolo
Mr. David Glynn

Mr. John Miller
Mr. Ronald Torbert
Chief Ricardo Longoria

COMMISSIONERS ABSENT:

Ms. Margaret Robinson Faville
Mr. Satyam Talati

DEPARTMENT PERSONNEL PRESENT:

Ms. Martha Yoder, MIOSHA Deputy Director
Dr. Adrian Rocskay, MIOSHA General Industry Safety & Health Division Director
Mr. Robert Pawlowski, MIOSHA Construction Safety & Health Division Director
Mr. Ronald Ray, MIOSHA Standards Section Acting Program Manager
Ms. Sharon Long, MIOSHA Standards Secretary
Ms. Marsha Parrott-Boyle, MIOSHA CET Grants Coordinator
Ms. Christine Hundt, MIOSHA Standards Section Departmental Analyst
Ms. Laura Williams, MIOSHA Management Information Systems Section Departmental Analyst
Ms. Sherry Scott, MIOSHA CET Division Supervisor
Mr. Tim Montle, MIOSHA General Industry Safety & Health Division Safety Inspector
Mr. Jeremy Kapalla, MIOSHA General Industry Safety & Health Division Industrial Hygienist

VISITORS PRESENT

Mr. John Cikalo, Dow Chemical
Mr. William Gollnitz, Plastomer Corporation
Mr. Mark King, Bricklayers & Allied Craftworkers

Dr. Donald Molenaar, Bayer Technology Services
Mr. Peter Panourglas, Huntsman

Agenda Item #1—Call to Order, Roll Call

The December 14, 2009 Occupational Health Standards Commission (OHSC) meeting was called to order by Chairperson Comai. A roll call was taken and a quorum was present.

Agenda Item #2—Approval of Minutes for October 9, 2009 Meeting

A motion was made by Commissioner Longoria and was seconded by Commissioner Novak to approve the minutes of the October 9, 2009 meeting. **MOTION CARRIED UNANIMOUSLY.**

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Agenda Item #3—Standards Section Update—Mr. Ronald Ray, Acting Program Manager

Mr. Ron Ray reviewed the FY 09-13 strategic plan and the goals for the Standards Section. He stated that MIOSHA has received the regulatory impact statement on the proposed ergonomics standard. It will be reviewed soon, and it is hoped that it will be available for the next Commission meeting.

Agenda Item #4—Old Business

a. Diisocyanate Standard Public Hearing Revisions. Mr. Ray stated that the diisocyanate standard public hearing comments and proposed revisions were submitted to the State Office on Administrative Hearings and Rules (SOAHR) for a preliminary review. SOAHR indicated that if specific proposed revisions were made, the proposed standard would need an additional public hearing.

One of the specific proposed revisions included adding subrule (9) to R 325.51564 Housekeeping which would read as follows:

- (9) Waste diisocyanates or any materials that are contaminated with diisocyanates shall be stored, as required in General Industry Safety Standard Part 1 General Provisions. In complying with Part 1 General Provisions, the employer shall specifically do all but not limited to the following:
- (a) Un-reacted liquid diisocyanates shall be stored in an appropriate labeled closed waste container.
 - (b) Solid materials that are contaminated with liquid or solidified diisocyanates shall be stored in an appropriate labeled waste container.
 - (c) Exterior containers or dumpsters of waste diisocyanates or any materials that are contaminated with diisocyanates shall be kept away from ventilation and air-intake equipment.

Commissioner Comai stated that subrule (9) could be moved to a non-mandatory appendix and thus avoid the need for another public hearing.

The other specific proposed revision that would cause the proposed standard to require an additional public hearing included changing subrule (7) in R 325.51564 Housekeeping to read as follows:

- (7) Preparing, storing, **consumption of consuming** foods, **and beverages**, and **tobacco products smoking** shall be prohibited in work areas where there is occupational exposure to diisocyanates.

Commissioner Comai stated that subrule (7) could be changed back to the original language (as it went to public hearing) and thus avoid the need for another public hearing.

In a letter received from Dow Chemical Company the opinion was expressed that there are many significant flaws with the proposed diisocyanate standard and recommended that MIOSHA temporarily withdraw the proposed standard and engage in additional consultation with affected employers prior to a reproposal. The Commission had previously addressed some of the issues outlined in the letter from Dow and at this meeting went on to discuss more of the issues.

The Commission opened this topic up for public comment and public comment was received as follows:

- Mr. William Gollnitz from Plastomer Corporation stated that his company believes this proposed standard will be overly burdensome and that some of the language is vague. Mr. Gollnitz stated that his company's customers are slowly leaving the state and that his company might be forced to do the same if this proposed standard goes into effect.
- Mr. John Cikalo from Dow Chemical Company stated that the proposed standard states that the employer must "provide" employees with a medical assessment. He suggested this language changed to "offer". Mr. Cikalo also stated that the lack of exposure thresholds in the proposed standard makes it difficult for the employer to properly implement it.
- Dr. Donald Molenaar from Bayer Technology Services stated that within medical community there is confusion surrounding what constitutes a diisocyanate symptom. Most physicians are not knowledgeable on the symptoms and behaviors of exposure to these chemicals and when to remove the employee from that environment. He felt that the proposed standard could be

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significantly strengthened by an appendix or flow chart regarding medical surveillance that can be used by physicians.

- Mr. Peter Panourglas from Huntsman expressed his concern with exposure limits. He was also concerned about the medical surveillance requirements in the proposed standard. He stated that many physicians are not familiar with diisocyanate protocols and that an appendix or table with that information could be helpful.

At this time Commissioner Comai closed the public comment period. The Commission went on to discuss the suggestion of moving the proposed language for storage of materials contaminated with diisocyanates, R 325.51564 Housekeeping, subrule (9)(a)-(c), to a non-mandatory appendix.

A motion was made by Commissioner Miller and seconded by Commissioner Glynn to move the proposed language for storage of materials contaminated with diisocyanates, R 325.51564 Housekeeping, subrule (9)(a)-(c), to a non-mandatory appendix. **MOTION CARRIED UNANIMOUSLY.**

The Commission discussed the proposed language change in R 325.51564(7) regarding prohibiting preparing, storage, consumption of foods, and beverages, and tobacco products in work areas where there is occupational exposure to diisocyanates.

A motion was made by Commissioner Cianciolo and seconded by Commissioner Longoria to return the language in R 325.51564(7) back to as it originally was when it went to public hearing. (Five Commissioners voted in favor, one Commissioner was opposed, and one Commissioner abstained from voting. **MOTION CARRIED.**

The Commission discussed the lack of a threshold limit and if there was a need for more of a trigger in the proposed standard.

A motion was made by Commissioner Glynn and seconded by Commissioner Novak to not incorporate an action level in the proposed standard. **MOTION CARRIED UNANIMOUSLY.**

The Commission discussed the language in Rule 325.51570 Medical Surveillance and whether the term "provided" should be changed to "offered" a medical assessment.

Chief Longoria asked to be excused from the meeting at this point.

A motion was made by Commissioner Glynn and seconded by Commissioner Cianciolo that the language in Rule 325.51570 Medical Surveillance should read "a medical assessment shall be provided" and not be changed to "a medical assessment shall be offered". (Five Commissioners voted in favor and one Commissioner (Novak) abstained from voting. **MOTION CARRIED.**

The Commission discussed R 325.51543 Definitions, subrule (1)(c) "Designated employee representative" and the language in R 325.51582 Recordkeeping, subrule (3) which states, "Employee training records shall be provided, upon request, for examination and copying, to employees, employee representatives, and the director ...".

A motion was made by Commissioner Novak and seconded by Commissioner Torbert to add the word "designated" to R 325.51582(3) so that it matches the term used in the definitions in R 325.51543(1)(c). **MOTION CARRIED UNANIMOUSLY.**

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A motion was then made by Commissioner Novak and seconded by Commissioner Glynn to move the proposed diisocyanate standard forward in the promulgation process. **MOTION CARRIED UNANIMOUSLY.**

b. Top 10 PELs Advisory Committee. The Commission discussed 14 applications for the PEL Advisory Committee.

A motion was made by Commissioner Novak and seconded by Commissioner Glynn to appoint Bernard Hennessy, Patricia Fisher, Dennis O'Brien, Dennis Emery, Jessie Simpson, and Tom Kinman as Labor Representatives and Cynthia Ostrowski, Peggy Brady, Tim Kearney, Oscar Rodriguez-Franco, Phillip Peterson, and William Bishop as Management Representatives to the PEL Advisory Committee. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Commissioner Glynn and seconded by Commissioner Miller to appoint Ken Rosenman and Richard McLonis as Technical Advisors to the PEL Advisory Committee. **MOTION CARRIED UNANIMOUSLY.**

c. Michigan Representative Sarah Roberts' Bill on Banning of Dry Cutting Masonry. The Commission discussed Representative Roberts letter which raised the concern of the safety risks associated with dry cutting/grinding of masonry outdoors and how research has shown that dry cutting or dry grinding of masonry or concrete results in high exposures to silica dust among workers. Representative Roberts proposed measures to protect these workers. Mr. Ray stated there is an OSHA notice of proposed rulemaking regarding this subject due in July of 2010.

Mr. Mark King of the Bricklayers and Allied Craftworkers asked the Commission to support Representative Roberts' proposal for measures to protect workers from exposure to silica and not to wait for a proposed standard from OSHA.

A motion was made by Commissioner Glynn and seconded by Commissioner Cianciolo to seat an advisory committee to work on the feasibility of a rule limiting silica exposures in dry cutting of masonry. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #5--MIOSHA Update--Ms. Martha Yoder, Deputy Director

Ms. Martha Yoder stated that MIOSHA is still waiting for the final federal budget and are continuing with the current spending plan. It is anticipated that increased funding will be available when the budget is in place. In the area of staffing, she stated that she is pleased to announce that Ms. Marsha Parrott-Boyle has moved into the position of Grants Administrator and is a very active and proactive administrator. Ms. Parrott-Boyle will also assume the responsibility for the MIOSHA Leadership Institute which will train future leaders. MIOSHA has a new Appeals Director, Ms. Dawn Jack, from the Attorney General's office. Upcoming retirements include Mr. Tom Swindlehurst from the CET Division on December 31 and Ms. Linda Long from the CET Division on January 31. Deputy Director Yoder discussed the tough economic times initiative. She stated that OSHA has conducted a state plan study in Nevada, and they will be conducting evaluations of all state programs.

Agenda item #6--General Industry Safety & Health Div. Update--Dr. Adrian Rocskay, GISHD Director

Dr. Adrian Rocskay stated there have been 14 general industry fatalities in CY 09. Programmed assignments will be issued to field staff tomorrow. Dr. Rocskay discussed a fatality at Sycamore Golf Club which involved employees cutting down a dead tree. The GISHD Safety Officers and Industrial Hygienists continue to conduct joint inspections and are continuing with a tree trimming initiative. The GISHD will be hiring two Industrial Hygienists in January.

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Agenda Item #7-Constuction Safety & Health Division Update–Mr. Bob Pawlowski, CSHD Director

Mr. Robert Pawlowski stated that all fatality investigations were initiated with 24 hours. There have been ten fatalities to date in 2009—two struck-by, two crushed-by, two electrocutions, one explosion, one cave-in, and two falls. On October 13, 2009, Imperial Construction Company was cited by MIOSHA with \$131,600 in proposed penalties for allegedly failing to adequately protect employees from trenching and excavation hazards. Employees were exposed to trenching hazards which led to a cave-in, killing one worker.

Mr. Pawlowski stated that MIOSHA received funds to conduct inspection work at roadway and infrastructure projects with American Recovery and Reinvestment Act (ARRA) funding. The initiative was launched on July 1, 2009 and will run through September 30, 2010. From July 1 to September 30, 2009 the CSHD conducted 31 inspections at ARRA sites.

The CSHD hired 3 new Safety Officers and currently has 43 positions—18 Safety Officers, 6 Industrial Hygienists, 8 supervisory staff, and 11 support staff. CSHD currently has 2 positions open—1 field compliance Safety Officer and 1 Safety Supervisor.

Agenda Item #8--OSHA Update--Ms. Cynthia Hutchens-Smith, Lansing Area Director

Ms. Cynthia Hutchens-Smith stated that OSHA's new Regulatory Agenda is available on their website at www.osha.gov. OSHA has issued a guidance directive for PPE for EMS workers and guidance directive for H1N1. OSHA has a national emphasis program for food flavoring, for recordkeeping, and for a global harmonization system of classification and labeling of chemicals.

Agenda Item #9--New Business--Election of Officers for 2010

A motion was made by Commissioner Cianciolo and seconded by Commissioner Miller to nominate Commissioner Longoria as Vice-Chairperson for the Occupational Health Standards Commission for 2010. **MOTION CARRIED UNAMIOUSLY.**

A motion was made by Commissioner Comai and seconded by Commissioner Glynn to nominate Commissioner Novak as Chairperson of the Occupational Health Safety Standards Commission for 2010. **MOTION CARRIED UNAMIOUSLY.**

Agenda Item #10--Next Meeting

The next meeting will be held on January 6, 2010 at the General Office Building, 7150 Harris Drive, Lansing in Conference Room B at 9:30.

Agenda Item #11--Public Comment

None at this time.

Agenda Item #12--Adjournment

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

Gary Novak
Gary Novak, Chairperson

February 24, 2010
Date