



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
DOUGLAS KALINOWSKI  
DIRECTOR

STEVEN H. HILFINGER  
DIRECTOR

## CONSTRUCTION SAFETY STANDARDS COMMISSION MEETING

August 17, 2011- 9:30 A.M.

State Secondary Complex, General Office Building  
1<sup>st</sup> Floor, Conference Room B, Lansing, Michigan

### MINUTES

#### COMMISSIONERS PRESENT:

Gregg Newsom, Chairperson  
Timothy Bedenis

Don Hiltunen  
Joe Gillespie

Mark Bulthuis  
Valerie Bradley

#### COMMISSIONERS ABSENT:

Jack O'Donnell  
Tapan Datta

Kathleen Dobson, Vice Chairperson

#### DEPARTMENT PERSONNEL PRESENT:

Michael Mason, MIOSHA Acting Deputy Director  
Ron Ray, MIOSHA Management & Technical Services Division Director  
Daniel Dykstra, MIOSHA Standards Program Manager  
Dena Hendon, MIOSHA Standards Analyst  
Brian Gronda, MIOSHA Construction Safety & Health Division Safety Supervisor  
Toscha Densmore, MIOSHA Standards Secretary  
Sherry Scott, MIOSHA Consultation, Education & Training Manager  
Jim Getting, MIOSHA Consultation, Education & Training, Construction Safety Consultant  
Rich Sumner, MIOSHA Consultation, Education & Training, Construction Safety Consultant

#### VISITORS

Ryan Wolschleger, OSHA Industrial Hygienist  
RW "Sandy" Phillips, Consumers Energy

Pete Anderson, AGC of Michigan

#### 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, Roll Call**

The August 17, 2011 Construction Safety Standards Commission meeting was called to order at 9:35 a.m. by Chairperson Newsom. A roll call was taken and a quorum was present.

### **Agenda Item #2 - Approval of Minutes from May 18, 2011 Meeting**

A motion was made by Commissioner Gillespie and was seconded by Commissioner Bradley to approve the minutes of the May 18, 2011 meeting. **MOTION CARRIED UNANIMOUSLY.**

### **Agenda Item #3 – MIOSHA Update – Michael Mason, MIOSHA Acting Deputy Director**

Mr. Michael Mason provided a brief update on the budget. MIOSHA's budget is still in good shape for FY 11, ending September 30, 2011, and we expect to spend all federal funds. Federal OSHA recently monitored our spending and found a few issues. MIOSHA addressed those issues in the 23(g) Financial Monitoring Report and submitted a response on May 25, 2011, and is awaiting their response.

Mr. Mason announced that the MIOSHA Asbestos Program is implementing an online payment system for those individuals or companies wishing to renew their licenses online. The online payment system will virtually eliminate the need for administrative staff to manually process paper documents and checks, thus freeing up resources to perform other essential asbestos related tasks in the office. The system will not charge the customer a fee to process the credit card payment or electronic fund transfer.

There are 24 CET grant applications in the process of being reviewed. The grant awards amount to approximately 1.24 million dollars. The grant applicants that focused on safety areas in line with our strategic plan goals had a better chance of being selected than those that did not.

Mr. Mason provided an update on the staffing within MIOSHA. On April 25, 2011, MIOSHA acquired the Prevailing Wage Law from the Wage & Hour Division. In addition to acquiring the Prevailing Wage Law, MIOSHA acquired all of the Wage & Hour Division on May 23, 2011. The Wage and Hour Division is responsible for enforcing two wage protection laws in Michigan, the Payment of Wages and Fringe Benefits Act and the Minimum Wage Act. Currently, MIOSHA has 204.5 employees, not including the Wage & Hour Division's 25 employees. As many already know, Ms. Martha Yoder retired on July 29, 2011. Mr. Mason is acting in the role of Deputy Director until the position is filled. Mr. Ron Ray has been appointed as the Director of Management and Technical Services Division (MTSD).

Mr. Mason addressed changes with several rules. House Bill 4307, which reclassifies Christmas tree production as an agricultural operation had no opposition, and will probably go into effect in the near future. In the meantime, Mr. Doug Kalinowski issued a declaratory ruling on the issue. The ruling declares that work activity performed in modern-day Christmas tree production is equivalent to work activity performed in industries that have been defined as agricultural operations under the Act, and therefore, Christmas tree production is an agricultural operation. Based on a Federal OSHA compliance directive issued in December of 2010, the policy for Residential Fall Protection has been revised. Under the revised policy employers engaged in residential construction activities must comply with CS Part 45, Fall Protection. To allow the residential industry adequate time and resources to comply with the revised policy, MIOSHA has adopted a six month phase-in period, which began June 16, 2011 and will end on December 16, 2011. The Office of Regulatory Reinvention's Workplace Safety Advisory Rules Committee is currently reviewing all MIOSHA standards. The committee has met four times and is reviewing all instances where MIOSHA rules exceed federal standards. To facilitate the review

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process, we will be providing the committee with certain information about each rule, such as, whether or not the rule exceeds the comparable federal standard. If the rule exceeds the federal standard, is it beneficial? We will determine if the rule conflicts with or duplicates similar rules or regulations. MIOSHA will determine how many times a rule has been cited over time; and, if it has not been cited we do not necessarily need to eliminate it. It may be that a particular rule has become an industry standard and the majority of employers are always in compliance (e.g., hard hats).

As requested by federal OSHA, MIOSHA is preparing to mail letters to beverage distribution companies in Michigan to alert them about the ergonomic hazards common to the industry and the high rate of musculoskeletal injuries to beverage distribution workers. The letter will highlight the available control technology and techniques that can be used to address these hazards.

### **Agenda Item #4 – Management and Technical Services Division Update – Ron Ray, Director MTSD**

Mr. Ron Ray gave a brief update on our budget. All state plans are facing a possible cut of 5%. It is anticipated that MIOSHA will receive a cut of 2-3%. The FY 12 budget may be a bit tough, depending on what the State does as well as the federal cuts, but we believe MIOSHA will be able to handle the cuts. As for hiring, we are temporarily in a holding pattern due to budget. Currently MTSD only has 2 vacancies both in the Laboratory and Equipment Services Section (LESS). MIOSHA is also working on replacing older computers.

### **Agenda Item #5 - Standards Section Update – Daniel Dykstra, Program Manager**

Mr. Daniel Dykstra provided a brief update on the Office of Regulatory Reinvention (ORR) project. Currently the Standards Section staff is spending a majority of their time working on the ORR project, along with staff from other MIOSHA divisions. Staff is addressing any issues that may come up from the committee. The focus is on those standards that exceed federal mandates. ORR advises that while the committees are reviewing rules for all of state government, the rule promulgation process is moving slow.

In June, GI Part 90, Confined Space Entry, language was amended and became effective June 21, 2011. OH Part 529, Welding, Cutting & Brazing, is being worked on to bring MIOSHA's standard in line with the federal language. This standard is in the final stages of the revision process; however, it cannot be completed until the Legislature is back in session. We anticipate approval at the end of September or beginning of October.

Mr. Dykstra gave an update on the staffing within the Standards Section. Ms. Debbie Merryfield will be returning from maternity leave next week on a part-time basis. Ms. Merryfield will be helping with CS Part 10.

### **Agenda Item #6 – Construction Safety & Health Division (CSDH) Update – Brian Gronda, Safety Supervisor**

Mr. Brian Gronda provided an update on the progress towards strategic and performance goals. All fatality investigations were initiated within 24 hours. There have been 7 fatalities in CY 2011; 2 falls, 1 fall/asphyxiation, 1 caught-between, 1 crushed by, 2 electrocutions; and 1 catastrophe involving electrical shock and arc flash.

CSDH issued citations against Posen Construction Inc. in a significant case on June 6, 2011. Posen Construction Inc. received three willful violations, three repeat serious violations, and five serious violations for alleged safety hazards with total proposed penalties of \$199,200.

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CSHD and CET launched a Residential Fall Protection Initiative April 4, 2011. Over 8,500 letters were mailed out to residential builders and sub-trade contractors to inform them of the new fall protection requirements for residential construction and to offer training resources and training opportunities. A document is posted on the MIOSHA website regarding the six month "phase-in" period for enforcement of the revised fall protection requirements. CET is offering seminars to prepare for this revision. OSHA gave a three month phase-in period for the revision and MIOSHA has adopted a six month phase-in period, which began June 16, 2011 and will end on December 16, 2011. CS Part 2, Masonry Wall Bracing, a revised standard came out last summer and a Fact sheet has been added to the MIOSHA website. Mr. Gronda reported that the partnership with Pioneer Construction Co. went into effect on June 10, 2011.

Mr. Gronda also pointed out that they are receiving calls in regards to medical marijuana. Employers are asking how to deal with this topic as employees feel if they have the card they can use while working, but employers do not want employees using equipment/machinery while impaired. The employers are being referred to CS Part 1, General Rules, rule 115 (3) and rule 116(2). Employees are asking what happens if they get fired for failing a drug test? This is something that MIOSHA would not enforce; it would be up to a judge to decide the outcome.

### **Agenda Item #7 - Old Business**

#### **a. Status of CS Part 10, Lifting and Digging Equipment**

Mr. Dykstra gave an update on the status of CS Part 10, Lifting and Digging Equipment. The process to revise CS Part 10 has been through many iterations over the past few years. The original proposed rules included requirements which exceeded federal regulations, and through the public hearing process, there was opposition expressed to those provisions. The current stance of the Governor's office and the ORR is to discourage any new regulations which exceed federal requirements. Therefore, we are currently working on what we hope will be the final draft language, which has removed all new provisions which exceed federal requirements, and will be "essentially similar" to the federal crane standard. We have discussed this strategy with the ORR, and have their agreement on moving forward. We hope to have that final package submitted to the ORR by early September, and hope the rules will be effective in late September or early October.

#### **b. Proposed rule change for CS Part 22, Signals, Signs, Tags, Barricades**

MITA addressed the Commissioners at the meeting in May requesting approval for the Advisory Committee to look at rule 2225 for possible revisions. The request is in regards to employees doing road painting and being restrained on moving vehicles. The Commission gave approval during the May meeting for the committee to review the rule. To date, the committee has not been able to meet. A meeting is scheduled for September 20, 2011. Once they meet, the recommendations from the committee will be brought to the commission for approval.

### **Agenda Item #8 – New Business**

#### **a. CS Part 22, Signals, Signs, Tags, Barricades - Advisory Committee Application**

##### **i. D. Lynn Coleman**

Commissioner Bradley made a motion to appoint Mr. D. Lynn Coleman to the Advisory Committee for CS Part 22. Commissioner Bulhuis seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

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Mr. Coleman also applied for appointment to CS 12, Scaffolds and Scaffold Platforms and CS 21, Guarding of Walking and Working Areas. The application for those two committees has been tabled until committees are ready for creation and more applications are received.

**Agenda Item #9 – Public Comment**

No public comment.

**Agenda Item #10 – Next meeting**

The next Construction Safety Standards Commission meeting will be held on Wednesday November 9, 2011, 9:30 a.m., General Office Building in Lansing, Conference Room B.

**Agenda Item #11 - Adjournment**

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

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Gregg Newsom, Chairperson

Date