



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

February 15, 2012- 9:30 A.M.
State Secondary Complex, General Office Building
1st Floor, Conference Room B, Lansing, Michigan

MINUTES

COMMISSIONERS PRESENT:

Gregg Newsom, Chairperson
Timothy Bedenis
Kathleen Dobson, Vice Chairperson

Joe Gillespie
Mark Bulthuis

Valerie Bradley
Jack O'Donnell

COMMISSIONERS ABSENT:

Tapan Datta

Don Hiltunen

DEPARTMENT PERSONNEL PRESENT:

Ron Ray, MIOSHA Management & Technical Services Division Director
Daniel Dykstra, MIOSHA Standards Program Manager
Patty Meyer, Construction Safety and Health Division Director
Dena Hendon, MIOSHA Standards Analyst
Debbie Merryfield, MIOSHA Standards Analyst
Toscha Densmore, MIOSHA Standards Secretary
John Stewart, MIOSHA Construction Safety and Health Division Safety Inspector

VISITORS

Robert Bonack, OSHA Lansing Area Director
Lynn Coleman, MLTAI
Homer Sterner, Operating Engineers
Jim Gaus, MDOT

John Hartwell, Operating Engineers
RW "Sandy" Phillips, Consumers Energy
Patrick Brown, MITA

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 February 15, 2012, Construction Safety Standards Commission meeting was called to order at 9:33 a.m. by Chairperson Newsom. A roll call was taken and a quorum was present.

Agenda Item #2 - Approval of Minutes from August 17, 2011 Meeting

A motion was made by Commissioner Gillespie and was seconded by Commissioner O'Donnell to approve the minutes of the August 17, 2011, meeting. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #3 – MIOSHA Update – Ron Ray, Director, MTSD

Mr. Ron Ray welcomed the commission and offered apologies from Mr. Doug Kalinowski and Mr. Bart Pickelman for not being in attendance. Mr. Ray announced that Mr. Kalinowski will be retiring from state service on February 21, 2012. There will be an open house Friday, February 17, 2012, from 1pm-3pm for Mr. Kalinowski. Mr. Kalinowski will be moving to Washington, D.C. to take on a new career with federal OSHA as the Director of Directorate of Cooperative and State Programs. It is anticipated that MIOSHA will be updated in the next few weeks on who will replace Mr. Kalinowski as the new director of MIOSHA.

Mr. Ray updated the commission on the status of the ORR project. The group concluded with meetings in December 2011, and forwarded their recommendations to the Governors office. MIOSHA is currently awaiting the outcome of the recommendations. At this time, it is believed that whatever the outcome is from the Governor, that MIOSHA will need to hold public hearings and go through the normal promulgation process for any changes.

Mr. Ray provided a brief update on MIOSHA's budget. At the beginning of the fiscal year, MIOSHA had a 4.5 million deficit due mostly to a change in the method for budgeting retirement costs. MIOSHA lost 34 staff members to retirement in FY11. MIOSHA held off on filling positions, reduced travel, and cut back on training to help with the deficit, and MIOSHA is waiting until March to start filling positions. By holding off on filling positions, and another adjustment by the state in retirement costs, MIOSHA is now looking at a zero deficit. General Industry is in the process of hiring an Industrial Hygienist for our Saginaw office and three Safety Officers. Consultation, Education and Training is in the process of hiring one Consultant. MIOSHA is proposing to fill another ten positions. The federal budget had a cut of 0.2% overall for funding of State plans. The federal budget for next year appears to have no increase in funding and MIOSHA will continue to look at creative ways to deal with budget.

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

Mr. Ray provided an update on Consultation, Education and Training (CET) grants approved for FY 12. MIOSHA has awarded 22 CET grants totaling \$1.05 million to promote worker safety and health across the state. The Michigan Safety Conference will establish a new division to target employees and employers in the Agricultural/Landscaping industry and will deliver specific safety and health training for these industries.

The Laboratory and Equipment Services Section (LESS) has been reaccredited by the American Industrial Hygiene Association (AIHA) through 2014.

Currently MIOSHA is using IMIS (Integrated Management Information System) for entering inspection data into the federal database, and the system is very outdated. During a power outage last week, a server went down and we are unable to replace it. We are in the process of replacing the system, and are looking to hire a

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consultant to help design a system for MIOSHA. It is anticipated that MIOSHA will have a new system by the end of the year.

Mr. Ray provided an update on staffing within MTSD. MTSD currently has one vacancy, a combination position that oversees the CET Grants and the training institute. This position was previously held by Ms. Marsha Parrott-Boyle.

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

Mr. Daniel Dykstra provided a brief update on the ORR project. MIOSHA has heard that we may get results from the project in late February. So far, it is believed there will be approximately 2000 individual rule changes. It is also believed that MIOSHA will be following the normal rule promulgation process and the changes recommended by the ORR committee will not be done legislatively. Out of the approximate 2000 changes, we have been told that most appear to be rescinding rules. Mr. Ray pointed out that any changes from the ORR project will not compromise worker safety.

Mr. Dykstra gave an update on staffing in the standards section. Staffing within Standards includes Ms. Dena Hendon and Ms. Debbie Merryfield as analysts, with one analyst position vacant. Standards did lose the student assistant that was assisting with the workload, and since her departure, projects and workload were reassigned.

Mr. Dykstra gave an update on the Standard Revisions & Progress Report. CS Part 1, General Rules, in regards to sanitation, is on hold; CS Part 12, Scaffolds and Scaffold Platforms, is on hold; CS Part 6, Personal Protective Equipment, the committee has completed their review, and a final draft is being finished, we hope to have it submitted in the next month; CS Part 10, Lifting and Digging, was submitted on January 13, 2012; CS Part 22, Signals, Signs, Tags & Barricades, final draft is ready to be submitted; and CS Part 32, Aerial Work Platform, final draft is ready to be submitted.

Agenda Item #6 – Construction Safety & Health Division (CSHD) Update – Patty Meyer, Director CSHD

Ms. Patty Meyer provided an update in regards to the Construction Safety & Health Division (CSHD). In working towards strategic and performance goals, CSHD has initiated all fatality investigations within 24 hours of the fatality being reported. To date for Calendar Year (CY) 12, CSHD has investigated 2 fatalities. Both fatalities were fall related incidents. The first fatality was at L & S Plumbing Inc. where an employee fell from a ladder and struck his head and chest on the floor. A recommendation was issued to the company. The other fatality was at Seaway Painting, LLC, and is still under investigation. In CY11, CSHD investigated 10 fatalities, which is 1 less than CY10. Ms. Meyer pointed out that CSHD is seeing a spike in ladder falls, concrete work accidents, and they are concentrating on confined space entry and scaffolding.

Ms. Meyer gave an update on a significant case that CSHD had in June 2011 with the Hydaker-Wheatlake Company. Employees were working on a power transmission line when an arc flash occurred. Two workers were sent to burn units, and 3 other employees were checked for heart conditions. This incident was deemed a catastrophe by MIOSHA. The company received 6 Willful violations and 1 Serious violation for a total of \$384,300 in penalties. All of the violations pertain to Construction Safety Standard, Part 16, Electrical Power Distribution and Transmission. The company had been inspected 15 times in the past 10 years and had been issued 7 Serious violations and 14 Other-than-Serious violations. The company is currently appealing the violations.

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CSHD and CET launched a Residential Fall Protection Initiative April 4, 2011. Full compliance was required to start on December 16, 2011. At the end of 2011, residential construction industry was granted an additional 4 months from December 16, 2011 through April 16, 2012, to get into compliance. A Residential Fall Protection Forum is being planned for March 14, 2012, to assist residential builders with fall protection “best practices” and provide training for establishing criteria for developing site-specific fall protection plans.

CSHD developed new fact sheets for Part 2 Masonry Wall Bracing Q&A, and Heat Stress Awareness. CSHD also revised the Fall Protection, General Interpretation and Residential Fall Protection Compliance Criteria instructions.

Since the last Commission meeting, CSHD has one new alliance which is with The Michigan Laborers Training and Apprentice Institute. The agreement was signed in November 2011. CSHD is currently in discussion with Operating Engineers Local 324 Journeyman & Apprentice Training Fund in respects to an alliance.

Ms. Meyer gave a brief update on the staffing within CSHD. Currently, they have 41 positions filled and are in the process of hiring two new industrial hygienists.

Ongoing partnerships in Construction are with: Detroit Edison; Pioneer Construction Co; and Christman Company. Detroit Edison has gone approximately 3 years without a lost time incident. Pioneer Construction Co. has had no loss time incidents, but 2 recordable injuries. Christman Company has no recordable injuries as of yet on their partnership project.

Agenda Item #7 – OSHA Update – Robert Bonack, OSHA Lansing Area Director

Mr. Robert Bonack gave a brief update on staffing within OSHA. Mr. Mike Connor, the regional administrator, retired at the end of December. The vacancy has not been filled as of yet. Mr. Bonack then presented a Power Point presentation on OSHA activities for FY11.

Mr. Bonack shared a poster with the commission that showcased trenching and informed the commissioners if they were interested in having one, he had extra. Also, the Lansing office address and phone number for OSHA was provided should there be a need to contact Mr. Bonack.

Agenda Item #8- Old Business

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

Mr. Dykstra provided a brief update on CS Part 10, Lifting and Digging Equipment. Ms. Debbie Merryfield and Mr. Paul Wrzesinski have met several times with staff from the Office of Policy and Legislative Affairs (OPLA), going line by line, word by word through our changes. The changes have been submitted and are in the process of being finalized. MIOSHA is pushing for the urgency of this rule set to be approved. Mr. Ray pointed out that MIOSHA is not the only agency waiting on rules. OPLA has over 400 rules currently waiting for review and approval. Commissioner Newsom pointed out that the CS Part 10 advisory committee donated over 100 hours of time and expertise, and most members are wondering why these rules are not moving along. Mr. Ray stated that whether a proposed rule set is moving or is on hold, the groundwork is done, and eventually we can move forward with recommendations. Mr. Dykstra mentioned the work done on ergonomics, which was eventually discontinued, but MIOSHA will keep the work that was done so if it is re-opened in the future, the work done will not be wasted. Ms. Meyer believes Part 10 should be a priority and hopes that downtown will see the importance and move it along. Mr. John Hartwell stated some of the advisory committee members

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had concerns in regards to rigging, and whether we will move it forward? Mr. Dykstra stated that changes in regards to riggers has been withdrawn due to the proposed rules being more stringent than federal OSHA. This decision was made outside of MIOSHA. Mr. Patrick Brown asked Mr. Bonack if there is anything that federal OSHA can do to put pressure on OPLA to help get Part 10 pushed along. Mr. Dykstra stated that MIOSHA has discussed this with OSHA staff. Ms. Meyer stated that any violations that are not currently covered under Part 10 are being cited under general duty provisions. Commissioner Dobson expressed some concern about rules that may be outdated versus those that are waiting to be approved.

b. Proposed rule change for CS Part 32, Aerial Lifts

Ms. Debbie Merryfield stated the advisory committee met in January of 2011 to review the proposed changes to the Michigan Manual on Uniform Traffic Control Devices (MMUTCD). The 2011 edition of the MMUTCD became effective in December. Mr. Homer Sterner and Mr. John Stewart provided the commission with draft rules incorporating the 2011 edition of the MMUTCD into CS Part 32, Aerial Lifts and asked that the Commission approve the proposed rules. A motion was made by Commissioner Dobson and seconded by Commissioner Bulthuis to approve the request. **MOTION CARRIED UNANIMOUSLY.**

c. Proposed rule change for CS Part 22, Signals, Signs, Tags, Barricades

Ms. Merryfield gave a brief overview of the process. Mr. Patrick Brown provided the commission with an explanation of the rule changes put together by the advisory committee for CS Part 22, Signals, Signs, Tags, Barricades. At an earlier Commission meeting, Mr. Brown briefed the commission on the request that the Michigan Infrastructure Transportation Association (MITA) had received in regards to the placement and removal of cones. Mr. D. Lynn Coleman joined the committee and was pleased with the outcome and feels that the requested changes will be a great benefit to the workers and the public involved. Mr. Stewart stated that the advisory committee made the language clearer for employers to understand. A motion was made by Commissioner O'Donnell and seconded by Commissioner Bradley to approve the request. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #9 – New Business

a. 2012 Meeting Schedule

The meeting schedule for 2012 was distributed and approved by the Commissioners.

b. Election of new Chairperson and Vice-Chairperson

A motion was made by Commissioner Newsom to nominate Kathleen Dobson as Chairperson of the Commission for 2012. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Commissioner Bradley to nominate Jack O'Donnell as Vice Chairperson of the Commission for 2012. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #10 – Public Comment

No public comment.

Agenda Item #11 – Next meeting

The next Construction Safety Standards Commission meeting will be held on Wednesday, May 16, 2012, 9:30 a.m., General Office Building in Lansing, Conference Room B.

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Agenda Item #12 - Adjournment

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

Gregg Newsom, Chairperson

Date