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WHAT'S HAPPENING

Construction Safety and Health Division Occupational Health Investigations

The Industrial Hygiene Section in the Construction Safety and Health Division is responsible for investigating asbestos abatement activities of contractors, exempt trade groups, and others in Michigan. This section responds to complaints of improper work practices or procedures involving asbestos abatement and disturbance activities. If noncompliance is proven, citations may be issued with monetary fines. Common deficiencies determined during investigations are as follows:

- Inappropriate engineering and work practices controls
- Inadequate cleanup of all asbestos-containing debris following abatement projects
- Inadequate communication of asbestos hazard to employees
- Initial employee asbestos exposure assessment not conducted
- Inadequate hazard communication program

In addition to alleged violations of the Michigan Occupational Safety and Health Act (Act 154 of 1974) or the rules and regulations promulgated under its authority, the Industrial Hygiene Section enforces the requirements of the Asbestos Abatement Contractors Licensing Act (Act 135 of 1986) and the Asbestos Workers Accreditation Act (Act 440 of 1988).

New MIOSHA Publication

The new MIOSHA publication called "[Enforcement & Appeals Overview](#)" is now available in the CET Publications Library. This publication replaces the old CET publications, MIOSHA Citation and Appeal Process (#0146) and MIOSHA Enforcement – An Overview Brochure for the Employer (#0102).

2013 Take A Stand Day

The 9th Annual Take a Stand Day (TASD) takes place on August 14, 2013. The expectation for TASD is that all MIOSHA compliance staff, outreach consultants, managers, and supervisors will provide one-on-one consultations to high hazard companies statewide. If you have not already done so, please reserve the date in your calendar. We currently have 185 TASD Requests for Consultative Assistance (RCA), including 43 for construction.

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Hearing Held Without Employer Provides Important Reminders

A number of contested citation hearings are held yearly without the employer being present. Under the rules for MIOSHA hearings, if a party fails to appear after proper notice, the hearing may proceed in the absence of the party or the court may enter a default against the employer. If a default is issued, the appeal is dismissed and the citations and penalties are upheld as issued by MIOSHA. Where the hearing proceeds in absence of the employer, the evidence of the MIOSHA violations is undisputed. Thus, absent some defect in MIOSHA's presentation of the evidence of the violation at hearing, the citations and penalties are likely to be upheld as issued.

An employer's failure to appear for hearing is sometimes reported to be because the employer: is no longer in business; filed bankruptcy; or was not notified of the hearing.

An employer going out of business or undergoing a bankruptcy after citations were issued will not eliminate the citations or extinguish the appeal. If an employer filing bankruptcy or going out of business no longer wishes to contest the citations, a letter communicating the desire to withdraw the appeal and accept the citations and penalties as issued should be sent to MIOSHA Appeals Division, or to MIOSHA Appeals Division and the Michigan Administrative Hearing System when the case is scheduled for hearing. Otherwise, the contested citations must proceed through the entire appeal process, resulting in a waste of valuable time and resources for both the court and MIOSHA.

If the failure to appear at hearing is due to a failure to receive notice of the hearing, this may be due to MIOSHA Appeals Division and the Michigan Administrative Hearing System not having the correct contact information. If an employer relocates the business, or hires an attorney or other representative for purposes of the appeal, a notice of this change with the correct contact information should be sent to MIOSHA Appeals Division and the Michigan Administrative Hearing System so notice of the hearing date, time and location can be received.

If an employer wants to continue to contest citations where the hearing proceeded in their absence or a default was entered, they must file such a request with the Michigan Administrative Hearing System within 10 days after the hearing date and show good cause for failing to appear. If the judge determines good cause is shown, the hearing will be rescheduled.

MEDIA

July 9, 2013 – [O'Brien Construction Company, Partnering Subcontractors and MIOSHA Sign Partnership to Protect Workers during Construction of the Lincoln Park Lofts Project](#)

All of the MIOSHA Press Releases can be viewed from our [website](#).

AGENCY INSTRUCTIONS/MEMOS ISSUED

June 7, 2013 - MIOSHA-ADM-10-2R1 [Take A Stand Day \(TASD\) Guidelines](#)

July 5, 2013 - MIOSHA-SHMS-13-3 [Personal Protective Equipment \(PPE\) Program for MIOSHA Personnel](#)

July 15, 2013 - MIOSHA-MEMO-COM-12-1R1 [Heat-Related Illness Inspections](#)

VARIANCES

Variations from MIOSHA standards must be made available to the public in accordance with Part 12, Variations (R408.22201 to 408.22251). MIOSHA variations are published on the MIOSHA News website: www.michigan.gov/mioshavariances.

QUICK LINKS

[Agency/Division Instructions/Memorandums](#)

[Asbestos Program](#)

[Ask MIOSHA](#)

[Consultation Education & Training \(CET\) Division](#)

[CET Request for Consultative Assistance Services](#)

[CET Training Calendar](#)

[Construction Safety & Health Division \(CSHD\)](#)

[DVD/Video Library Service](#)

[Employee Safety, Health and Discrimination Complaint Forms](#)

[General Industry Safety & Health Division \(GISHD\)](#)

[Laboratory & Equipment Services](#)

[Michigan Alliances](#)

[MIOSHA FOIA Request Form](#)

[MIOSHA Homepage](#)

[MIOSHA News](#)

[MIOSHA Publications](#)

[MIOSHA Standards](#)

[MIOSHA Training Institute \(MTI\)](#)

[MIOSHA Variations](#)

[Strategic Plan & Initiatives](#)

[Telephone, Mailing and Email Addresses](#)

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[MIOSHA Standards Updates](#)

[MIOSHA Training Institute \(MTI\) Announcements](#)

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