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## WHAT'S HAPPENING

### MIOSHA Asbestos Program is the Recipient of the Reinvention Patent Award!

The MIOSHA Asbestos Program is pleased to announce that they will be receiving a Reinvention Patent Award for their implementation of the Asbestos Abatement Accreditation On-Line Renewal Payment System. The Reinvention Patent Program was developed to encourage and recognize employees/inventors who identify creative ideas and innovations that can be implemented to improve and simplify work processes that support LARA's common philosophy and tagline: *Customer Driven. Business Minded.*

The MIOSHA Asbestos Program established and implemented their on-line renewal system earlier this year. It was designed to allow their customers an opportunity to renew and pay for their asbestos accreditation licenses on-line using credit or debit cards. Each year the Asbestos Program receives an average of 3,700 accreditation renewals that have to be processed manually. The on-line system has reduced the amount of manual processing of renewal applications by office administrative staff by several hours per week, and has provided a simple and convenient renewal option for our customers since its launch.

On June 5<sup>th</sup> LARA Director Steven Hilfinger will present the Reinvention Patent Award to the key individuals responsible for getting the on-line system up and running: **Lisa Hogan, Kim Weaver**, and **Tony Casaletta**, MIOSHA Asbestos Program; **Bob Kieffer**, MTSD; and **Jibu John**, DTMB.

### MIOSHA Twitter Account

MIOSHA officially launched its new Twitter account on May 10, 2012. This social media account was created to help achieve MIOSHA's mission to assure the safety, health, and earned wages and fringe benefits of Michigan workers. We want to increase accessibility to MIOSHA and allow stakeholders and other interested parties to engage in further discussion on a variety of safety, health, or wage hour topics while participating in a globally recognized forum. MIOSHA plans to tweet safety and health messages to our followers daily and our followers are encouraged to re-tweet our tweets to their followers.

Some sample @MI\_OSHA tweets include:

- Sign up today for MIOSHA's "Take A Stand Day" on Wednesday, August 8, 2012. [www.mi.gov/mioshatasd](http://www.mi.gov/mioshatasd) #worksafe;
- Check out this new MIOSHA publication, "Sample Fall Protection Plan for Residential Construction Work." [#fallprotection michigan.gov/documents/lara/lara\\_miosha\\_cet0184\\_383858\\_7.doc](http://michigan.gov/documents/lara/lara_miosha_cet0184_383858_7.doc);
- The final steel beam raised into place at the [@BWLComm](#) [@REOTown](#) Steel "Topping Out" Ceremony by The Christman Company <http://pic.twitter.com/CgXfTVkW>.

Follow MIOSHA today at [www.twitter.com/MI\\_OSHA](http://www.twitter.com/MI_OSHA).

For more frequent updates on MIOSHA activities:

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## Circuit Court Reverses Final Agency Decision

On May 9, 2012, an Ingham County Circuit Court Judge issued an Opinion and Order ordering the dismissal of the citations and penalties issued to **NG Gilbert Corporation** in Inspection 313328502.

The citations stemmed from an accident investigation conducted by the Construction Safety and Health Division. On May 18, 2009, an NG Gilbert employee positioned at a wire trailer suffered an electrical shock and third degree burns from a 40,000kv energized electrical line during a stringing operation. The investigation revealed the wire trailer was not grounded and the employee was not wearing proper personal protective equipment (PPE) at the time of the accident.

Three serious rule violations totaling \$2,500 in proposed penalties were issued:

- Part 1, Rule 114(2)(b): Accident prevention program did not provide instruction to employees of job hazards & safeguards regarding grounding.
- Part 16, Rule 1647(2): Briefing not conducted outlining grounding devices and proper safeguards.
- Part 16, Rule 1648(4): No ground installed during stringing operations.

NG Gilbert contested the citations and a hearing before an Administrative Law Judge (ALJ) was held. At hearing, NG Gilbert contended the general rule provision under Part 1 was not applicable given the more specific provisions contained in Part 16. In addition, NG Gilbert argued the rules cited under Part 16 were not applicable to the work operation because the 40,000kv line was not a “transmission line” but a “distribution line.” In support of this contention, NG Gilbert presented testimony from the company Safety Director and a letter from federal OSHA interpreting the two terms within the General Industry standard for Power Transmission and Distribution. Lastly, NG Gilbert asserted the employee engaged in employee misconduct by not wearing his PPE.

The ALJ rejected NG Gilbert’s defenses and affirmed the three violations and penalties as issued by MIOSHA. The ALJ found that NG Gilbert’s reliance upon a federal OSHA interpretation regarding transmission and distribution lines was not persuasive as these definitions “are not fixed in the Construction safety standards.” In establishing the Part 1 violation, the ALJ concluded that the employee written statements established that the hazards of non-grounded equipment was not discussed at the pre-job briefing. In rejecting the employee misconduct defense, the ALJ noted the testimony established the employee was without his PPE because the foreman had borrowed it and therefore had knowledge the employee was not wearing the equipment.

NG Gilbert exercised its right to file exceptions with the Board of Health & Safety Compliance and Appeals (Board) requesting the Board review the decision. When the Board took no action on the ALJ decision, the decision became final. NG Gilbert then exercised its right to petition for a review of the final decision with the Circuit Court.

In reversing the ALJ’s decision and the citations, the Circuit Court made the following determinations:

- Because Rule 1647 does not explain when grounding is necessary and grounding is only specifically referenced in Rule 1648 in regards to energized transmission lines, it can be assumed that grounding is not required when working on an energized line other than a transmission line.
- Unless a specific definition is given to a term in the standard, the law requires that technical meanings be given to words when technical meanings exist.
- The company’s un rebutted testimony that the power line industry defined the term “transmission line” to mean a line carrying voltage of 69,000kv or more was controlling.
- While the court is not required under the MIOSH Act to follow federal OSHA interpretations, the OSHA interpretation distinguishing between transmission and distribution lines was persuasive.

MIOSHA will be evaluating this ruling further to determine if any measures should be taken to better address electrical hazards in the standard for stringing operations involving energized distribution lines.

## Safety Patrol Picnic

The **Lansing Area Safety Council** held their annual **Safety Patrol Picnic** on Wednesday, May 16th, at Hawk Island Park in Lansing. The picnic was a huge success, with more than 1,500 safety patrols from Ingham, Eaton and Clinton counties attending. The picnic is sponsored by the Safety Council as a “thank you” for those elementary school children (primarily in the fourth and fifth grades) who serve as safety patrollers during the school year. Each year several MIOSHA staff use community leave time to volunteer at the event: talking with kids about the need to work safe, asking them to share the message to work safe with their parents, and thanking them for their work to keep students safe on their way to and from school. Thanks to MIOSHA staff who were there to help this year, including **Katie Benghauser, Charla Drysdale, Kim Fedewa, Melissa Hempstone, Tommy Kesterson, Jodi Meddaugh, Mary Ann Pianosi, Dan Perri, and April Walker.**

## MEDIA

**May 2, 2012** – [Pokagon Band of Potawatomi Indians, Christman/Kraus-Anderson and MIOSHA Sign Partnership to Ensure Worker Safety at Four Winds Casino Project This is the first MIOSHA partnership with an Indian Nation](#)

**May 23, 2012** – [Herman Miller, Inc.'s Hickory Operations Receives Star Award for Workplace Safety and Health Excellence](#)

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

## AGENCY INSTRUCTIONS ISSUED

**May 3, 2012** - MIOSHA-MEMO- SHMS-12-1 - [Electric Power Substation Entry for MIOSHA Personnel](#)

**May 8, 2012** - CSHD-COM-04-2R2 - [Fall Protection – General Interpretations](#)

**May 18, 2012** - MIOSHA-MEMO-ADM-09-8R3 - [Waiver of Freedom of Information \(FOI\) Fees for Employers During Tough Economic Times](#)

**May 22, 2012** - MIOSHA-GEN-04-1R2 - [UAW/Ford/ACH/MIOSHA Partnership \(Revised\)](#)

## CALENDAR OF EVENTS

**June 13, 2012** – **General Industry Safety Standards Commission Meeting @ 9:30 am** – State Secondary Complex, General Office Building, 7150 Harris Drive, Lansing – Conference Room B

**July 11, 2012** – **Occupational Health Standards Commission Meeting @ 9:30 am** – State Secondary Complex, General Office Building, 7150 Harris Drive, Lansing – Conference Room B

## QUICK LINKS

[Consultation Education & Training \(CET\) Division](#)  
[Construction Safety & Health Division \(CSHD\)](#)  
[General Industry Safety & Health Division \(GISHD\)](#)  
[MIOSHA Homepage](#)

To sign up for our MIOSHA ListServ Messages, click on the links below:

[MIOSHA Standards Updates](#)  
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For more frequent updates on MIOSHA activities, please visit our website at

[www.michigan.gov/miosha](http://www.michigan.gov/miosha). Like us on  Facebook and  Follow us on [Twitter!](#)

For more information about LARA, please visit [www.michigan.gov/lara](http://www.michigan.gov/lara). Follow LARA on Twitter [www.twitter.com/michiganLARA](http://www.twitter.com/michiganLARA), “Like” LARA on Facebook, or find LARA on YouTube [www.youtube.com/michiganLARA](http://www.youtube.com/michiganLARA).

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