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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

May 18, 2011- 9:30 A.M.

MIOSHA Management and Technical Services Division Laboratory  
7707 Rickle Street, Lansing, Michigan

### MINUTES

#### COMMISSIONERS PRESENT:

Gregg Newsom, Chairperson  
Kathleen Dobson, Vice Chairperson  
Tapan Datta  
Timothy Bedenis

Don Hiltunen  
Joe Gillespie  
Mark Bulthuis

#### COMMISSIONERS ABSENT:

Jack O'Donnell

Valerie Bradley

#### DEPARTMENT PERSONNEL PRESENT:

Martha Yoder, MIOSHA Deputy Director  
Daniel Dykstra, MIOSHA Standards Program Mgr.  
Robert Kieffer, MIOSHA MTSD Acting Director  
Patty Meyer, MIOSHA CSHD Director

Ron Ray, MIOSHA MTSD LESS Manager  
Sherry Scott, CET Manager  
Debbie Merryfield, MIOSHA Standards Section  
Toscha Densmore, MIOSHA Standards Secretary

#### VISITORS

Robert Bonack, Lansing Area OSHA Director  
John Hartwell, Operating Engineers  
Jim Gaus, MDOT  
Patrick Brown, MITA  
Victor Childers, Childers Safety Services

Tom Taylor, Consumers Energy  
Don Staley, The Christman Company  
Jacob Clark, MDOT  
Peter 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 May 18, 2011 Construction Safety Standards Commission meeting was called to order by Chairperson Newsom. A roll call was taken and a quorum was present.

### **Agenda Item #2 – Introduction of New Commissioners**

Chairperson Newsom welcomed the two new commissioners and requested everyone to introduce themselves.

Commissioner Bedenis introduced himself and provided a brief description of his background. Commissioner Bedenis graduated from Michigan Tech as a Civil Engineer, with a Masters and a Bachelors degree. He currently works for Soil and Materials Engineers, which primarily does work in Michigan and the Mid-West. He also has 20 years experience with underground construction.

Commissioner Bulthuis then introduced himself and provided a brief description of his background. Commissioner Bulthuis stated he too was certified for underground construction. He graduated from Calvin College. He has 35 years experience with electrical contracting, is an OSHA outreach instructor, has 15 years experience with Safety supervision, and he still holds his electrical license.

Introductions were then made by the remaining members in attendance. Commissioner Staley thanked the Commission for the time he served and stated he wished he could remain a member.

### **Agenda Item #3 - Approval of Minutes from February 18, 2011 Meeting**

A motion was made by Commissioner Dobson and was seconded by Commissioner Datta to approve the minutes of the February 18, 2011 meeting. **MOTION CARRIED UNANIMOUSLY.**

### **Agenda Item #4 – MIOSHA Update – Martha Yoder, MIOSHA Deputy Director**

Ms. Martha Yoder stated that the budget is in good shape. Mr. Ron Ray is working on purchases for laboratory equipment and upgrades for field staff equipment. MIOSHA recently had an audit by OSHA of the 23g grant. There were four minor recommendations that are currently being worked on. These four items were either mis-categorized or they wanted more details. Grant applications for FY 12 are currently being worked on. 23g funds enforcement and part of CET functions and 21d funds onsite consultations.

Ms. Yoder gave a brief update on the staffing within MIOSHA. Ms. Patty Meyer has been promoted to the Director of the Construction Safety & Health Division (CSHD) since our last meeting. Ms. Nella Ray-Davis has been promoted to Director of the Consultation, Education & Training Division (CET). The vacancy left when Mr. John Peck retired is currently in the process of being refilled. In the meantime, the position is temporarily being rotated between Mr. Ron Ray, Mr. Robert Kieffer, and Mr. Daniel Dykstra.

Ms. Yoder provided a bit of background on a few bills that are being presented to the House and Senate. Senate Bill 14 which is to repeal MIOSHA in March of 2012 has been referred to the Committee of Appropriations. We are not too concerned that this will move forward as there is strong support from the regulated community to keep MIOSHA. Also recent interviews with Director Hilfinger indicate support for maintaining MIOSHA. Senate Bill 20, which prohibits a department, board, or commission authorized to promulgate rules from mandating workplace ergonomic standards, was signed into law by Governor Snyder on March 22, 2011. MIOSHA can adopt Federal rules on ergonomics if/when such rules are adopted. House Bill 4307 which is to amend the Agricultural Operations definition to include work activity associated with cultivated Christmas trees has been referred to the Committee on Regulatory Reform.

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Our Department name has changed from the Department of Energy, Labor, and Economic Growth (DELEG) to the Department of Licensing and Regulatory Affairs (LARA - pronounced Laura). Mr. Steve Arwood is the Deputy Director overseeing MIOSHA. After several meetings with Mr. Arwood, he has indicated that he wants to learn more about MIOSHA, what we do, and participate in partnership signings. MIOSHA has acquired the Prevailing Wage Law from Wage and Hour Division effective April 25, 2011. This will be overseen by Mr. Kieffer in the Management and Technical Services Division – Management Information System Section. Ms. Yoder thanked CSHD and CET for the quick turnaround process on the new residential fall protection initiative, and also thanked MITA for letting MIOSHA hold some training at their location. The Office of Regulatory Reinvention (ORR) is in the process of analyzing our rules and regulations. They have required that we review all standards, and all documents that provide guidance to the public, and provide it to ORR. This would include our fact sheets, guidebooks, and any documents used by CET in their trainings.

Last month MIOSHA was honored at the Michigan Safety Conference and received the Harry L. McKinley Safety Leadership Award. Ms. Sheila Ide from CET received the Safety Professional of the Year award. June 8, 2011 is MIOSHA's 7<sup>th</sup> Take A Stand Day. To date, 105 requests have been received requesting participation. The idea behind Take A Stand Day is that we will provide a consultation free of charge in which we will consult on specific issues at the establishments request, will do a complete inspection of the establishment, will look at written programs, and will answer any questions the establishment may have to ensure a safe and healthy work environment. There are extra fliers available and it is encourage that the Commission share with all those that may be interested in participating.

Ms. Yoder went over the report on Death on the Job, The Toll of Neglect, a National and State-by-State profile of worker safety and health in the United States, published by the AFL-CIO. Michigan compares quite well. In 2009 we had 93 fatalities, a combination of program related and non-program related. Michigan ranked 10<sup>th</sup> in the nation. For injuries and illnesses our rate was 4.2 versus the national rate of 3.6, we are above the national rate. It is estimated it would take approximately 49 years for each workplace in Michigan to be inspected at least once by OSHA, which ranks us at 4<sup>th</sup> in the nation.

### **Agenda Item #5 – Management and Technical Services Division Update – Robert Kieffer, Acting Director MTSD**

Mr. Robert Kieffer gave an update on the status of the Integrated Management Information System (IMIS) being replaced with the OSHA Information System (OIS). IMIS is a federal database that dates back to the 1980's and currently is being used to enter all inspections and the data obtained such as violations cited, safety recommendations, fatality reports, and to pull statistics from. The new program, OIS, is a web-based program that will be easier for the users and will require less maintenance and repair as is currently needed for the older system. OIS is planned to be active May 24, 2011 for the CET division, and August 18, 2011 for the enforcement divisions.

Mr. Kieffer gave a brief update on our budget. MIOSHA is currently in the process of replacing older computers. The Laboratory & Equipment Services Section (LESS) is accredited by the American Industrial Hygiene Association and is in the process of renewing the accreditation. Mr. Ray is working with Ms. Nicole Bergsma of the Budget/Freedom of Information Section (FOIS) on the grants. CET grants are gearing up for FY 12, the grants are used for training and outreach. The proposal deadline for new grants is June 16, 2011.

Mr. Kieffer provided an update on staffing within MTSD. The laboratory has hired four new staff members, the Management Information Systems Section (MISS) has two new staff members, the MIOSHA Standards Section (MSS) has one new member, and FOIS has two new staff members. MTSD has also recently acquired the Prevailing

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Wage Law program from Wage & Hour, which comes with one inspector. Mr. Kieffer offered the Commissioners and guests a tour of the laboratory with Mr. Ray when the meeting is over.

### **Agenda Item #6 - Standards Section Update – Daniel Dykstra, Program Manager**

Mr. Daniel Dykstra provided an update on the standards progress report noting there have not been any changes since the last meeting. Most rules are currently on hold at ORR, as they are in the process of reviewing all rules, policies, and guidelines. These are being analyzed for such things as the benefits to the regulated community, cost impact, and when the rules were last updated. MIOSHA has over 150 standards that we administer and the entire agency is working on the evaluation for the ORR.

Mr. Dykstra gave a brief update on the status of Advisory Committees. Four Advisory Committees are currently being formed. They are GI Part 20, Underhung Cranes and Monorail Systems; GI Part 19, Crawler, Locomotive and Truck Cranes; GI Part 62, Plastic Molding; and GI Part 17, Refuse Packer Units. CS Part 6, GI Part 33, and OH Part 433, Personal Protective Equipment, are looking at consistency among the three standards. There should be a few more meetings and then a proposal should be ready for submission. GI Part 74, Fire Fighting, is about 2/3 of the way done, and they are updating to current practices and referenced standards. CS Part 22, Signals, Signs, Tags, and Barricades, CS Part 32 and GI Part 58, Aerial Work Platforms are all working on updates to the current MMUTCD, and the work is complete. However they are waiting for MDOT to adopt the new version of the MMUTCD before proceeding. OH Part 301/601, Air Contaminants, is working on final language. OH Part 621, Health Hazard Control for Specific Equipment and Operations, the Commission approved the recommendations submitted by the Committee. CS Part 1, General Rules, has been submitted to LARA administration. CS Part 12, Scaffolds and Scaffold Platforms, we need to schedule a public hearing. OH Part 316, Diisocyanates, we are working on the agency report. At ORR now is a portion of CS Part 10, Lifting and Digging Equipment; GI Part 90, Confined Space Entry; OH Part 554, Bloodborne Infectious Diseases; OH Part 433, Personal Protective Equipment; and GI Part 33, Personal Protective Equipment.

### **Agenda Item #7 – Construction Safety & Health Division (CSHD) Update – Patty Meyer, Director**

Ms. Patty Meyer gave an update on the progress towards strategic and performance goals. She stated that all fatality investigations were initiated within 24 hours. There were 11 construction program related fatalities in 2010, 3 falls, 3 crushed by, 1 electrocution, 2 cave-ins and 1 chemical exposure. For FY 11, the Construction Safety & Health Division (CSHD) is currently investigating two fatalities. One is an electrocution while installing cable TV equipment. The employee made contact with 277 volts. The other is a fall from a platform after trusses fell and knocked the employee off.

CSHD issued citations against Detroit Water and Sewerage Department in a significant case. Ms. Meyer reviewed some of the specifics of the incident. There were 14 alleged violations with a total proposed penalty of \$110,400. Another significant case involved a fatality of an employee from Royal Roofing Company, Inc. Four employers were issued citations in this case. Royal Roofing Company, Inc. was the exposing employer and received 3 alleged violations with a total proposed penalty of \$145,600. E.W. Ensroth Company was the creating contractor and received 2 alleged violations with a total proposed penalty of \$72,100. L. D'Agostini & Sons, Inc. was the exposing and controlling contractor and received 2 alleged violations with a total proposed penalty of \$8,400. De-Cal, Inc. was the controlling contractor and received 1 alleged violation with a total proposed penalty of \$3,500.

MIOSHA recently launched a joint special initiative with GISHD, CSHD and CET to address electrical hazards in the workplace. CSHD announced the Residential Fall Protection Initiative on April 4, 2011. Ms. Meyer provided a brief overview of the changes. The effective date for the Residential Fall Protection Initiative is June 16, 2011.

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CSDH currently has 46 positions available but not all are filled. Currently, CSDH is staffed with 15 Safety Officers, 5 Industrial Hygienists, 8 supervisory staff and 12 support staff. CSDH had 6 staff retire under the early retirement. Five of those positions have been filled: division director, health manager, asbestos program manager, executive secretary, and word processing assistant. With these positions filled, it did open more in the field, so they are still short on staff and are in the process of getting the field positions filled.

Ms. Meyer reviewed the ongoing partnerships in construction including three with Barton Malow Co., and one with Detroit Edison. Two partnerships are in the works, one in Allendale with Pioneer Construction for Grand Valley State University and the other for Rockford Construction/Meijer Construction Group for a Meijer in Bath Township.

Before moving on to the next item on the agenda, Commissioner Newsom asked that Mr. Robert Bonack from OSHA speak to the Commission. Mr. Bonack stated he was not prepared to give an update to the Commission at this time as he wanted to be an observer for his first meeting to see how things work, and he would present an update at the next meeting he attends. Mr. Bonack gave a brief overview of his work experience. He has taken over as the Director of the Lansing Area for OSHA. He came from the Regional office where he has worked as a compliance officer, program analyst, safety & health manager, and audit & analyst supervisor. Mr. Bonack is also an active member of the National Guard.

### **Agenda Item #8 - Old Business**

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

Mr. Dykstra gave an update on the status of CS Part 10. We are still in discussion on what the final rules should be and still in discussions with ORR. We have missed the Federal deadline, and are still continuing to work on a final draft. However, the ORR is focused primarily on the rules review work, and most administrative rules are currently on hold. We are not sure at this time when we will have a final draft to propose to the Commission. Ms. Yoder mentioned that it is not unusual for a pause in the rule promulgation procedure when we have new Administration. Once downtown has their comfort level, things will start to move again. It is currently being discussed whether to make our effective date to match the Federal date.

CS Part 10 is still being enforced by CSDH. If something comes up that is beyond our rule and is a serious item, we can cite it under General Duty. Our rule must be as effective as the Federal rule, so that is what must be followed.

### **Agenda Item #9 – New Business**

#### **a. Commissioner Recognition**

Ms. Yoder presented and read a letter and certificate to Mr. Don Staley to thank him for his years of dedicated service to the Construction Safety Standards Commission, and overall support for MIOSHA. Ms. Yoder also thanked Mr. Staley for allowing MIOSHA and visitors to tour his job sites and for showing strong support for safety and health to those that attended. Mr. Staley thanked the Commission and stated he did not want to leave and wished he could remain on the Commission.

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

Mr. Patrick Brown from MITA presented to the Commission a request that the current Advisory Committee be allowed to expand their scope and review amending rule R 408.42225, placement, removal, relocation, and use of traffic control devices from a moving vehicle; handholds. Mr. Brown stated MITA was approached by PK Contracting with this request. The request is to modify the rule which requires that seat belts or a guard rail system be in use. Mr. Brown stated that extensive research and studies have been conducted and reveal that certain parts of the rule, when followed as written, actually put workers at risk of serious injury or death. Two incidents were documented with a rear mounted platform where a worker saw a vehicle about to hit the work vehicle, and they were

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able to move since they were not seat belted in. It is questioned why the general industry rules allow a refuse vehicle to operate with the worker only using a handhold not a harness or seatbelt. Discussions with CSHD indicate they would like to work on moving forward with a rule that would make things safer for workers. Commissioner Datta asked if the difference is because the refuse worker is not on a moving vehicle while doing their work, where a cone pick up person is grabbing the cones while the vehicle is moving? It was suggested that, if R 408.42225 is modified, a speed restriction should be considered. Commissioner Dobson asked about the feasibility of a tether system. Mr. Brown stated that if a person were to fall out of the vehicle while moving, they could be dragged and possibly killed if they were using a tethering system. Commissioner Hiltunen asked if the purpose of this request is for the advisory committee to review and make suggestions. Commissioner Newsom stated that the Commission is to either approve or deny the request of MITA to have the advisory committee review the rule. The Commission asked that MITA provide more information before the next meeting so they can review and be prepared to discuss. A motion was made by Commissioner Hiltunen and seconded by Commissioner Gillespie to allow the advisory committee to review the request from MITA. **MOTION CARRIED UNANIMOUSLY.**

### Agenda Item #10 – Public Comment

Mr. Victor Childers requested Mr. Brown to provide him with some information regarding the request from MITA. He then asked if the public should follow the MIOSHA rules or the OSHA rules for CS Part 10. Ms. Yoder responded that the public is to follow our rules as well as any gaps that are part of the federal rule, and that they should familiarize themselves with the federal rules as well as the MIOSHA rules. Mr. Childers requested something be sent out to the public so they are clear on the understanding of what rules to follow. Ms. Meyers advised that the MIOSHA website clearly states what is expected. Mr. Dykstra pointed out we do have a comparison of the proposed CS Part 10 with the federal rule, but the target date has been moving due to the current administrative rules process.

### Agenda Item #11 – Next meeting

The next Construction Safety Standards Commission meeting will be held on Wednesday August 17, 2011, 9:30 a.m., General Office Building in Lansing, Conference Room B.

### Agenda Item #12 - Adjournment

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

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Gregg Newsom, Chairperson

Date