



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
Michigan Occupational Safety & Health Administration
(MIOSHA)

ANDREW S. LEVIN
ACTING DIRECTOR

OCCUPATIONAL HEALTH STANDARDS COMMISSION MEETING

January 12, 2011--9:30 A.M.
State Secondary Complex, 7150 Harris Drive
General Office Building, Conference Room B
Lansing

MINUTES

COMMISSIONERS PRESENT:

Mr. Andrew Comai
Mr. David Glynn
Sheriff John Miller

Mr. Gary Novak, Chairperson
Ms. Caroline Ross
Mr. Ronald Torbert

COMMISSIONERS ABSENT:

Mr. Jim Cianciolo
Mr. Satyam Talati

Chief Ricardo Longoria, Vice-Chairperson

DEPARTMENT PERSONNEL PRESENT:

Mr. Douglas Kalinowski, MIOSHA Director
Ms. Martha Yoder, MIOSHA Deputy Director
Mr. John Peck, MIOSHA MTSD Director
Mr. Adrian Rocskay, MIOSHA GISHD Director
Mr. Daniel Dykstra, MIOSHA Standards Program Mgr.

Ms. Patty Meyer, MIOSHA CSHD Acting Director
Mr. Robert Kieffer, MIOSHA MISS Manager
Ms. Cindy Eicher, MIOSHA MTSD Secretary
Ms. Debbie Merryfield, MIOSHA Standards Section
Ms. Marsha Parrott-Boyle, CET Grant Coordinator

VISITORS

Mr. Ryan Wolschleger, OSHA Area Office

Mr. Tim Kearney, Argus – Hazco

Agenda Item #1 - Call to Order, Roll Call

The January 12, 2011 Occupational Health Standards Commission (OHSC) meeting was called to order by Chairperson Novak. A roll call was taken and a quorum was present. Mr. Daniel Dykstra reviewed with the commission the teleconferencing guidelines as Andrew Comai was attending the meeting via teleconference.

Agenda Item #2 - Approval of Minutes from October 13, 2010 Meeting

A motion was made by Commissioner Torbert and was seconded by Commissioner Glynn to approve the minutes of the October 13, 2010 meeting. **MOTION CARRIED UNANIMOUSLY.**

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Agenda Item #3 – MIOSHA Update – Doug Kalinowski, Director, MIOSHA

Mr. Doug Kalinowski confirmed that the state is operating with a new administration in the governor's office and that Mr. Andrew Levin is continuing in his role as acting director of DELEG. Susan Corbin is still our Deputy Director as well. MIOSHA understands that after February 1st there may be some changes including some reorganizing of the department. It has been stated that the Governor wants to have six separate "super" departments but nothing has been finalized or announced. This information will be shared with commissioners as soon as it is available. Mr. Kalinowski advised that MIOSHA had 32 employees take advantage of the recent retirement opportunities. A number of managers and supervisors retired and other staff have been asked to step up to fill gaps when needed. Mr. Kalinowski advised that Mr. John Peck was retiring but had been extended through April 1, 2011. MIOSHA currently has 193 positions filled. Mr. Kalinowski stated that MIOSHA is operating under a continuing resolution for federal budget through the end of March. Operating for any time period under a continuation gives agencies less time to deal with any changes in funding which is difficult as we cannot carry forward any money. Due to the number of vacancies this year we may have difficulty in spending our allotted federal money.

At this time Commissioner John Miller arrived at the meeting.

Mr. Kalinowski advised that Federal OSHA recently completed the State Occupational Safety and Health Plans Enhanced Federal Annual Monitoring and Evaluation. MIOSHA received a compliment that they continue to operate a successful program. Michigan and Oregon were the only two states to receive that type of positive feedback. The final report is on OSHA's Website at <http://www.osha.gov/dcsp/osp/efame/index.html>. Most states were criticized for not following procedures and not having high enough penalties. There has been a big push to increase penalties, the federal average penalty is \$1000 and they wanted to raise the average to between \$3000 and \$4000. There has been quite a push back from states who feel our goal is to prevent injuries, illnesses and fatalities not to make money. This topic will be discussed more in the coming weeks.

Commissioner Glynn asked about that status of filling vacant MIOSHA positions. Mr. Kalinowski replied that we are in the process of filling as fast as we can and that some management positions are being closely reviewed by the state budget office. In addition to the original vacancies, there will be additional vacancies created when current MIOSHA employees fill a vacancy.

Agenda Item #4 - Standards Section Update – Daniel Dykstra, Program Manager

Mr. Daniel Dykstra gave a brief update on several of the pending tasks at hand as well as the progress we have made and will continue to make. Mr. Dykstra reviewed the standards progress report noting there have not been many changes since the last meeting. Mr. Dykstra noted that on December 21, 2010 a public hearing was held on OH Part 316 Diisocyanates and he indicated that most of the attendees were in support; however there were some concerns on threshold levels. Standards Section staff are currently working on the public hearing report which will be provided to the commissioners when it is completed.

Mr. Dykstra advised that on January 5, 2011 staff watched a Federal OSHA webcast which provided information on the anticipated globally harmonized classification system in August of 2011, silica is still being looked at, discussion about PEL's including information that they are developing a list of chemicals to focus attention on and the combustible dust standard initiative being considered in April. We are looking at the combustible dust issue in MIOSHA as well. Currently there is no plan to re-propose the ergonomics standard at the federal level. The webcast is available to read by going to www.osha.gov, click on newsroom and under

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web chats select regulatory agenda. Commissioner Comai asked for more information regarding the combustible dust standard. Mr. Dykstra advised OSHA indicated they would initiate the process in April of 2011 so it sounds like it is in the beginning stage. Mr. Ryan Wolschleger advised individuals can go to OSHA's website and look at the regulatory agenda to see the current status.

Commissioner Glynn asked about Diisocyanates public hearing comments and what the next step would be. Mr. Kalinowski advised that all commissioners will get to see a summary of comments before they are forwarded on and will be kept advised of the promulgation status. Several organizations suggested changes and some of them were made and then the standard was taken back to public hearing. Those who made the suggestions seemed happy with the changes but there were still some concerns. This will probably be discussed in detail at an upcoming commission meeting. All rules that are being proposed that go beyond the OSHA standards are being looked at very closely. This is not just MIOSHA rules but other state agencies as well. It was also pointed out that at the national level it takes a lot longer to promulgate rules. Combustible dust has been discussed for 3 to 4 years at the national level.

Agenda Item #5 – Construction Safety & Health Division (CSHD) Update – Patty Meyer, Acting Director

Ms. Patty Meyer provided the CSHD update. She stated there were 11 program related construction fatalities in 2010 including 3 falls, 3 crushed-by, 1 struck-by, 1 electrocution, 2 cave-ins and chemical exposure. This is up 1 fatality from the 10 fatalities in 2009. Overall it is still an improvement on our goal compared to other recent years. Construction has not had any program related fatalities to date in 2011.

Ms. Meyer reviewed recent significant cases. Ms. Meyer advised that the OSHA Family Meeting for Region 5 was hosted by MIOSHA this year. Ms. Meyer reviewed the ongoing partnerships and alliances in construction and mentioned discussions are in process for alliances with the Laborers Training Center in Perry and the Operating Engineers Training Center in Howell. Ms. Meyer advised that CSHD has exhausted its ARRA funding. MIOSHA launched an overtime initiative on ARRA projects. CSHD was able to conduct 339 inspections resulting in over 536 violations with 213 of those being classified as being serious, repeat or willful involving ARRA projects.

CSHD continues its efforts in working on the MIOSHA "Safety Pays" campaign and is also working to launch an initiative on electrocution hazards in the work place. Ms. Meyer advised that the four safety officers hired in June are now out in the field conducting inspections. CSHD recently lost a number of staff to retirements and is working to fill Division Director, Health Manager, Asbestos Program Manager, Asbestos Industrial Hygiene Specialist, Executive Secretary and a Word Processing Assistant. As with the other vacancies in MIOSHA we are working on filling these positions as soon as possible.

Agenda Item #6 – General Industry Safety & Health Division (GISHD) Update – Adrian Rocskay, Director

Dr. Adrian Rocskay reviewed progress towards achieving the goals set forth in the Strategic & Performance Goals. A five year goal (beginning in 2007) has been set to reduce by 20% the rate of worker injuries and illnesses in high-hazard industries. To date, six of the high-hazard industries have reached the 20% reduction goal. MIOSHA is working on developing ways to help the industries that have not met the goal. Program related fatalities jumped in 2010 to 26, however, it is hard to pinpoint a particular problem. Dr. Rocskay mentioned there were several electrocution fatalities. Dr. Rocskay also reviewed the five Special New Initiatives and two ongoing partnerships.

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GISHD is working to fill eight Safety Officers, two Health Supervisors, one Industrial Hygiene Specialist, one Industrial Hygienist, two Safety Supervisors, two Word Processing Assistants, one Rights Representative Manager and one Departmental Technician position. Many of these vacancies are due to retirements.

Agenda Item #7 – Federal OSHA Update – Ryan Wolschleger

Mr. Ryan Wolschleger advised the Injury and Illness Prevention Program (I2P2) OSHA is poised to begin and is in the small business review stage. With regards to silica, OSHA is looking at proposing a rule sometime this spring.

Agenda Item #8 - Old Business

a. OH 301/601 Advisory Committee Concerns - Tim Kearney, Co-Chair

Mr. Tim Kearney advised the Advisory Committee for Air Contaminants has been meeting since June 2010 and that they have repeatedly run into a few discussions they could not settle and they would like to ask for advice from the commission. They have come across some ACGIH TLV changes that were more conservative than the Committee thought might be needed and some information is quite dated. Mr. Kearney reviewed some specific examples of levels with the OHSC. The Committee felt it would be more beneficial if they could use some of the previous TLV and not the current, however, the scope of their mission may not allow them to look at those numbers. Therefore, they would like the latitude to consider previous TLV's if there is good information indicating those amounts would be favorable. In addition they have been attempting to make recommendations so that construction and general industry standards would be equivalent when possible. Mr. Kearney discussed the problems the Committee has encountered and they want latitude to adopt for construction equivalency. Therefore they are requesting the commission allow them these options if there is technical information to support their recommendation and, further, that when there are best practices available they be allowed to make use of that information as well.

Chairperson Novak asked for clarification on points and the three items were restated.

- 1) The Committee would like to be allowed to consider an ACGIH TLV other than those recommended in 2009.
- 2) The Committee would like to be allowed to consider a definition or specify an improved contaminant definition, for example, metal working fluids (MWF), or to consider best practices that exist for exposure assessment.
- 3) The Committee identified that there is no "welding fume" limit for construction. General industry currently regulates welding fume at 5 mg/m³. Not only does this difference place Michigan construction welders at increased risk when compared to their counterparts in general industry; but it increases the cost of monitoring construction workers, requiring monitoring for specific chemical species.

Ms. Martha Yoder asked if there were construction representatives on the Committee. Mr. Kearney advised that Mr. Bart Pickelman and Mr. Jeff Silva have attended meetings. Mr. Kearney explained the issues in more detail.

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Dr. Adrian Rocskay expressed concerns about what the committee was proposing and sees difficulty in enforcement, and/or prosecution in some cases.

Discussion was held on whether to evaluate these one at a time or as a group. Additional discussion was held on how levels would be matched up if we are not using ACGIH amounts. Clarification on how these items would be enforced was requested. It was stated that as long as methodology is defined enforcement can use that for their enforcement efforts. The Committee feels it is very important they use what is currently happening out in the work force. It was discussed that the Tables in Part 301 and 601 are just values with the exception of asbestos. A motion was made by Commissioner Comai and seconded by Commissioner Miller to approve all three requests made by the committee. After further discussion on the third item the motion was withdrawn.

A motion was made by Commissioner Comai and seconded by Commissioner Torbert that the committee be allowed to consider a definition or specify an improved contaminant definition, for example, MWF or to consider best practices that exist for exposure assessment. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Commissioner Torbert and seconded by Commissioner Comai that the committee be allowed to recommend TLV's other than the current ACGIH TLV's recommended in 2009 and to look at different resources. **MOTION CARRIED** with one no vote from Commissioner Glynn.

Further discussion was held with regard to the third item the Committee was requesting. A motion was made by Commissioner Miller and seconded by Commissioner Novak for the committee to recommend adding a "welding fume" limit for construction. A clarification was made that this would be adding an element to OH Part 601. Mr. Kearney advised that there was a compliance officer for CSHD in the meeting who stated this would be helpful to them and that Dr. Ken Rosenman who is on this Advisory Committee as a technical advisor had prioritized adding welding fumes to OH part 601 as one of his top concerns. After further discussion a roll call vote was taken. In favor were Commissioners Ross, Miller and Comai. Opposed were Commissioners Novak, Glynn and Torbert. **MOTION FAILED.**

Ms. Marsha Parrott-Boyle recommended that Mr. Kearney should take back to the Advisory Committee that maybe they should discuss recommending that the commission consider convening a separate Advisory Committee to discuss this issue.

Agenda Item #9 - New Business

a. 2011 CET Grant Announcement – Marsha Parrott-Boyle, CET Grant Coordinator (HO #9a)

Ms. Marsha Parrott-Boyle advised that MIOSHA gives \$1.05 million in grants to promote workplace safety and health across the state. Commissioners received a handout overviewing the grants for 2011. The MIOSHA CET Grants are awarded on a competitive basis to nonprofit organizations who must then file quarterly activity and financial reports. MIOSHA monitors each program. Most of the grants focus on the performance goals identified in the new MIOSHA strategic plan. Ms. Parrott-Boyle briefly reviewed some of the grantees for 2011 and highlighted worker safety issues. Two organizations receiving grants this year are dealing with ergonomic issues. There are also two grants addressing tree trimming issues which has been an industry with multiple fatalities in the past few years. Ms. Parrott-Boyle mentioned that last year she was able to visit eight of the twenty grantees.

b. Michigan Injuries and Illnesses Rates – John Peck, Director, MTSD (HO #9b)

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Mr. John Peck provided a handout showing an evaluation of the illness and injury rates for Michigan versus federal and other Great Lake States (Illinois, Indiana, Minnesota and Wisconsin). Mr. Peck reviewed the rates for selected strategic plan industries including manufacturing, beverage/tobacco products, private hospitals, private nursing/residential care facilities as well as the construction industry. Mr. Peck reviewed total recordable cases (TRC) rates and cases with days away from work, job restriction or transfer (DART).

c. 2011 Meeting Schedule (HO #9c)

Staff advised the April meeting may be moved to allow it to be held in conjunction with the Michigan Safety Conference. Commissioners will receive information in the near future.

d. Election of Chairperson and Vice Chairperson for 2011

The floor was opened up for nominations. A motion was made by Commissioner Comai and was seconded by Commissioner Novak to nominate Commissioner Longoria for Chairperson for 2011. Commissioner Longoria was not present to accept the nomination. **MOTION CARRIED UNANIMOUSLY on the contingency that the nomination is accepted.** [Note: After the meeting Commissioner Longoria was contacted by Mr. Dykstra and he accepted the nomination.] A motion was made by Commissioner Novak and was seconded by Commissioner Glynn to nominate Commissioner Torbert for Vice Chairperson for 2011. Commissioner Torbert accepted the nomination. **MOTION CARRIED UNANIMOUSLY**

Agenda Item #10 – Public Comment

None.

Agenda Item #11 – Next meeting

The next Occupational Health Standards Commission meeting will be held on April 13, 2011, 9:30 a.m., Conference Room B, General Office Building, in Lansing unless otherwise announced. [Note: After the meeting the next Occupational Health Standards Commission meeting was rescheduled for April 20, 2011, 9:30 a.m. at the Michigan Safety Conference at the Radisson Hotel in Lansing.]

Agenda Item #12 - Adjournment

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

Gary Novak, Chairperson

Date