



GRETCHEN WHITMER
GOVERNOR

State of Michigan
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
BARTON G. PICKELMAN, DIRECTOR

SUSAN CORBIN
ACTING DIRECTOR

MIOSHA GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH
STANDARD
PART 505 CORONAVIRUS DISEASE 2019 (COVID-19)
ADVISORY COMMITTEE MEETING

March 18, 2021 – 8:30 a.m.
Virtual – Teams Meeting

MEETING MINUTES

ADVISORY COMMITTEE MEMBERS PRESENT:

Andrew SmithMichigan Nurses Association
Kelly Indish.....AFSCME Local 875
Nathan PhillipsWest Michigan Plumbers, Fitters and Service Trades Local 174
Steven ClaywellMichigan Building and Construction Trades Council
Neil Parish.....National Electrical Contractors Association
Paul WrzesinskiAssociated General Contractors of Michigan
Wendy BlockMichigan Chamber of Commerce
Renee SmiddyMichigan Health & Hospital Association
Cindy OstrowskiCAO Consulting LLC
Don Staley.....The Christman Co.
Scott EllisMichigan Licensed Beverage Association
Sean Egan.....State of Michigan – Labor and Economic Opportunity (LEO)
Amelia DrummMichigan Retailers Association
David WorthamsMichigan Manufacturer’s Association
Nicole ManlyBlue Cross Blue Shield of Michigan

MIOSHA STAFF PRESENT:

Bart PickelmanMIOSHA Director
Ron RayMIOSHA Technical Services Division Director
Shannon MatsumotoMIOSHA Standards and FOIA Section Manager
Daniela Garza.....MIOSHA Standards and FOIA Section Analyst
Toscha KloppMIOSHA Standards and FOIA Section Secretary
Kristin Osterkamp.....MIOSHA CET Senior Industrial Hygienist
Eric AllenMIOSHA CSHD Health and Safety Manager
Matthew MacomberMIOSHA GISHD Industrial Hygiene Specialist 13
Mark Scott.....MIOSHA GISHD Industrial Hygienist Specialist
Lauren MillerMIOSHA Appeals Division Health Appeals Specialist

GUEST:

Brian TechlinMSU Federal Credit Union

Lawrence Hidalgo.....MIOSHA CSHD Director
Craig Anderson.....Michigan Farm Bureau
Valerie Knol.....

Call to Order - Introductions

The March 23, 2021, General Industry and Construction Safety and Health Standard Part 505 Coronavirus Disease 2019 (COVID-19) advisory committee meeting was called to order by Mr. Worthams at 8:32 a.m.

Roll call was taken. A quorum of advisory committee members was present.

Approval of March 18, 2021 Minutes

A motion was made by Mr. Staley to accept the minutes as presented. Mr. Wrzesinski seconded the motion. Without objection, the motion passed.

Committee member discussion

The committee continued with review of the draft rules at Rule 7.

Mr. Egan provided a brief overview of the current rule.

Discussion was held regarding eliminating the mention of 6-feet in the rule and regarding face coverings.

A motion was made by Mr. Wrzesinski to accept Rule 7(1) as written. Mr. Parish seconded the motion. Without objection, the motions passed.

A motion was made by Mr. Claywell to accept the remaining items in Rule 7. Mr. Smith seconded the motion. Discussion was held by the committee. Those in favor of the motion are Mr. Claywell, Mr. Phillips, Mr. Smith, Mr. Parish, Ms. Indish, and Mr. Wrzesinski. Those opposed are Ms. Block and Ms. Smiddy. With a majority vote, the motion passed.

Ms. Block stated she would like to amend rule 7(3), (5) and (6).

A motion was made by Mr. Wrzesinski to move the committee review to Rule 12 to work on the “sunset” language. Mr. Parish seconded the motion. Without objection, the motion passed.

Various discussions were held regarding how FEMA, the WHO and the CDC guidelines would play into the sunset rule.

A motion was made by Mr. Wrzesinski to add in the language he provided in the chat box and work from that.

“Within 14 days of the expiration of the Governor's State of Emergency and/or any State Agency Epidemic Orders or restrictions for COVID-19, the Michigan Occupational Safety and Health Administration shall conduct a regular, special, or emergency meeting

with the Board of Safety and Health Compliance and Appeals and an advisory committee, to determine whether there is a continued need for these regulations.”

There was no second to the motion. Motion failed due to no support.

Mr. Claywell inquired on what language would be acceptable for MIOSHA to be able to enforce the rules. Mr. Pickelman stated MIOSHA did not propose language as it was anticipated that the committee would help establish the parameters. MIOSHA staff will work on draft language to present to the committee at a future meeting. Ms. Smiddy requested that the departments proposed language have a statement that the rules would be rescinded within 14 days of the end of the pandemic. Mr. Smith does not believe we should have an automatic end date and agrees with having a language proposal from MIOSHA at a future meeting.

A motion was made by Mr. Smith that language for Rule 12 be proposed by MIOSHA staff. Mr. Claywell seconded the motion. Without objection, the motion passed.

A motion was made by Ms. Smiddy to take a break at 9:43 a.m. Mr. Smith seconded the motion. Committee to return at 10:00 a.m.

Mr. Staley wants it noted that Mr. Smith has pointed out some good points on losing some of the components of this rule set. COVID-19 is a vertical standard and likes that we can promulgate our own rules in Michigan and that MIOSHA could potentially move parts of this rule set and put into CS Part 1 for example.

Returning to Rule 7 as requested by Ms. Block just prior to moving ahead to Rule 12.

A motion was made by Ms. Block to amend to Rule 7(3) to state:

“The employer shall keep everyone on the worksite premises physically distanced as recommended by the latest CDC guidance and reduce congestion, including using ground markings, signs, and physical barriers, as appropriate to the worksite.”

Ms. Smiddy seconded the motion. Discussion was held by the committee. Those in favor of the motion are Mr. Block and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish, and Mr. Wrzesinski. With a majority vote, the motion failed due to lack of support.

A motion was made by Ms. Block to amend Rule 7(5) to state:

“The employer shall require face covering to be worn as recommended by latest CDC guidance.”

Ms. Smiddy seconded the motion. Discussion was held by the committee. Those in favor of the motion are Mr. Block and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish, and Mr. Wrzesinski. With a majority vote, the motion failed due to lack of support.

A motion was made by Ms. Block to amend Rule 7(6) to state:

“If recommended by the latest CDC guidance, the employer shall require face covering in shared spaces, including during in-person meeting and in restrooms and hallways.”

There was no second to the motion. Motion failed due to no support.

Rule 8 – Mr. Egan provided a brief overview of the current rule. He pointed out that cloth coverings are not considered PPE.

A motion was made by Ms. Smiddy to amend Rule 8(3) to state:

“In establishments that provide direct care of housing to known or suspected cases of COVID-19, the employer shall ensure that employees in frequent or prolonged close contact with such cases are provided with and wear, at a minimum, an N95 respirator or a face mask per the latest CDC guidelines, goggles or face shield, and a gown.”

Ms. Block seconded the motion. Discussion was held by the committee. Those in favor of the motion are Ms. Block and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish, and Mr. Wrzesinski. With a majority vote, the motion failed due to lack of support.

Mr. Smith asked for clarification on why MIOSHA proposed to change “medical treatment” to “direct care” in the proposed language. Ms. Osterkamp stated it was modified to ensure coverage for those outside of a hospital setting, such as a caregiver who may be doing house visits and are within 3-feet of a potential of confirmed COVID-19 patient, it helped to broaden the rule. Those opposed Mr. Smith, Indish, Phillips, Claywell, Parish, Wrzesinski. For Block, Smiddy. Motion fails due to lack of support.

A motion was made by Mr. Wrzesinski to approve all of Rule 8 as proposed. Mr. Smith seconded the motion. Those in favor of the motion are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish and Mr. Wrzesinski. Those opposed are Ms. Block and Ms. Smiddy. With a majority vote, the motion passed.

Rule 9 – Mr. Egan provided a brief overview.

Rule 9(1)(a) and (b) Mr. Staley inquired on removing the term “buses” unless it is an employer provided bus. Mr. Egan pointed out the intention was employer provided transportation, such as bus/van. It was recommended to change the example from “buses” to “employer provided transportation”.

The proposed language amendment for Rule 9(1)(a) and (b) states:

“(1) Construction. Businesses or operations in the construction industry must:

(a) Create dedicated entry point(s) at every worksite, if possible, for daily health screening as provided in Rule 6 of these rules, or in the alternative issue stickers or other indicators to employees to show that they received a health screening before entering the worksite that day.

(b) Identify choke points and high-risk areas where employees must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and employer provided transportation) and control their access and use (including through physical barriers) to maintain physical distancing.”

A motion was made by Mr. Claywell to adopt Rule 9(1)(a) and (b) as proposed. Mr. Phillips seconded the motion. Discussion held. Without objection, the motion passed.

A motion made by Mr. Parish to adopt Rule 9(2)(a) and (b) as proposed. Mr. Phillips seconded the motion. Without objection, the motion passed.

A motion was made by Ms. Smiddy to amend Rule 9(3)(e) to state:

“Design spaces and store activities in a manner that encourages employees and customers to maintain 6 feet of physical distancing per the latest CDC guideline.”

Ms. Block seconded the motion. Discussion held. Those in favor of the motion are Mr. Block and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish, and Mr. Wrzesinski. With a majority vote, the motion failed due to lack of support.

Ms. Drumm shared recommended language for Rule 9(3) and requested we strike Rule 9(3)(a). She asked for a motion by a voting member.

A motion was made by Ms. Block to accept the language provided by Ms. Drumm for Rule 9(3) to state:

“Retail, libraries, and museums. Retail stores that are open for in-store sales, as well as libraries and museums, must: do the following, if determined necessary per the latest CDC guidance or MDHHS epidemic order.”

There was no second to the motion. Motion failed due to no support.

Old Business – R408.2(1)(a) “Close Contact”

Will remain on the agenda for the next meeting.

Old Business – R408.5(8) Working Remotely

Will remain on the agenda for the next meeting.

Public Comment

Mr. Worthams opened the floor to public comment at 11:17 a.m. Mr. Anderson inquired on how members from the public could provide information for review by the committee. Mr.

Pickelman responded it could be provided to the Standards Section staff and distributed to the committee.

Next Meeting

Thursday, March 25, 2021 at 8:30 a.m.

Adjournment

A motion was made by Ms. Block to adjourn meeting. Mr. Claywell seconded the motion. Meeting adjourned at 11:21 a.m.

Mr. Worthams urged everyone on the committee to try to craft language and/or comments to help get us to a mutual consensus. He encourages we represent everyone that is covered by the MIOSHA rules.