



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 30, 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
Bernie Kerschbaum.....Industrial Equipment Manufacturing
Benjamin Tirrell.....Michigan Farm Bureau
Craig Anderson.....Michigan Farm Bureau
Derrick Scheidel.....
Kelly.....
AMC-Rocky Dowell.....
Lindsey Bielby.....
Laura Preuss.....
Valerie Knol.....

Call to Order - Introductions

The March 30, 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 8:31 a.m.

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

Approval of March 25, 2021 Minutes

Mr. Parish made a motion to accept the minutes as presented. Mr. Wrzesinski seconded the motion. Without objection, the motion passed.

Committee member discussion

Mr. Worthams asked if the committee would be ok with starting the discussion with reviewing the “Sunset” language first.

Ms. Ostrowski asked to address the committee. She pointed out that a lot of the language provided, is used in other rules and also in other states. She asked the committee to be open to recommendations. She asked when a member vote is no, could the committee have an explanation and further discussion. Ms. Manly supports the recommendation.

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

Added to next meeting agenda.

Old Business – R408.5(8) Working Remotely

Added to next meeting agenda.

Old Business – R408.12 Sunset

The committee reviewed the language the was recommended by the Agency. Mr. Egan gave a brief overview on where the language came from. Ms. Manly inquired on where the 90 days came from. Mr. Pickelman responded it is in some of our other rules, such as phase in dates. Discussion was held by the committee.

A motion was made by Mr. Claywell to accept the language as presented. Mr. Phillips seconded the motion. Discussion was held. Mr. Ellis requested that the committee please keep in mind other industries beyond the one that they represent. He also wanted it noted that the way the

language is currently written, it does not have an actual sunset date and he would not support the language as written. A vote was not held.

A motion was made by Ms. Block to amend the proposed language to state:

“Within 14 days of the expiration or rescission of the last remaining emergency order issued for COVID-19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to covid-19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall rescind these COVID-19 rules.”

Ms. Smiddy seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, and Mr. Claywell. Motion failed due to lack of support.

A motion was made by Ms. Block to amend to the proposed language to state:

“Within 14 days of the expiration or rescission of any remaining emergency orders issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID -19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall rescind those COVID-19 rules no longer applicable.”

Ms. Smiddy seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, and Mr. Claywell. Motion failed due to lack of support.

Ms. Drumm inquired on a better explanation on the 90-day suggestion, does that mean we would start a review of the rules, or rescind the rules within the 90 days.

A motion was made by Mr. Claywell to amend the proposed language to state:

“Within 60 days of the expiration or rescission of the last remaining emergency order issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID -19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall examine the continued need for those COVID-19 rules.”

With no objection on the proposal a vote was held. Those in favor of the motion are Mr. Smith, Ms. Indish, Mr. Phillips, and Mr. Claywell. Those opposed are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Motion failed due to lack of support.

Mr. Drumm inquired on if the department provided clarification on whether subsections of rules can be rescinded or only the entire rule 9 as an example vs rule 9 (3)(b)? Ms. Matsumoto provided the process to rescind rules, and stated yes, we could rescind subsections of a rule. Mr.

Ellis asked the process on how we determine if a rule is obsolete. Mr. Pickelman provided a response.

A motion was made by Ms. Block to amend the proposed language to state:

“With the expiration or rescission of any remaining emergency order issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID -19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall examine the continued need for those COVID-19 rules.”

Ms. Smiddy seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, Mr. Phillips, and Mr. Claywell. Motion failed due to lack of support.

A motion was made by Mr. Parish to amend the proposed language to state:

“Within 21 days of the expiration or rescission of the last remaining emergency order issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID -19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall examine the continued need for those COVID-19 rules.”

Ms. Block seconded the motion. Those in favor of the motion are Mr. Smith, Ms. Indish, Mr. Phillips, Mr. Claywell, Mr. Parish, Mr. Wrzesinski, and Ms. Smiddy. Those opposed are Ms. Block. Motion passes.

A motion was made by Ms. Smiddy to change the title of the Rule 12 from “Sunset Clause” to “Rescission Clause” or “Rule Expiration”. Ms. Block seconded the motion and made a recommendation for it to read “Requirements of MIOSHA”. Ms. Smiddy accepts the recommendation.

“R 408.12 Requirements for MIOSHA.”

Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Those abstained are Mr. Smith, Ms. Indish, and Mr. Philips. Motion passes.

Ms. Manly and Ms. Ostrowski suggested the section title should be “Rule Review”.

Mr. Drumm wants it noted the Retailers Association is not comfortable with the language as is.

A motion made by Mr. Wrzesinski to amend the proposed language to state:

“Within 21 days of the expiration or rescission of the last remaining emergency order issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID

-19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall examine the need for the rules contained in this COVID-19 regulation.”

Mr. Parish seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, and Ms. Smiddy. Ms. Block passed on the vote. Those opposed are Mr. Smith, Ms. Indish, and Mr. Phillips. Motion failed due to lack of support.

Ms. Manly proposed the following language.

“Within 21 days of the expiration or rescission of the any remaining emergency order issued for COVID -19 under MCL 333.2253 of the Public Health Code, and the absence, expiration, or rescission of a declaration of a state of emergency issued related to COVID -19 by the Governor under MCL 30.403(4) or MCL 10.31(1), the department shall examine the need for the rules contained in this COVID-19 regulation.”

A motion was made by Ms. Block to amend the language as proposed by Ms. Manly. Ms. Smiddy seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, and Mr. Phillips. Motion failed due to lack of support.

Ms. Block would like to table this section as the committee is making no headway. Ms. Smiddy seconded the motion. Those in favor of the motion are Mr. Parish, Mr. Wrzesinski, Ms. Block, and Ms. Smiddy. Those opposed are Mr. Smith, Ms. Indish, and Mr. Phillips. Motion failed due to lack of support.

A motion was made by Ms. Smiddy to adjourn the meeting for the day. Mr. Parish seconded the motion.

Public Comment

Mr. Worthams opened the floor to public comment at 10:29 a.m.

There was no public comment.

Next Meeting

Thursday, April 1, 2021 at 8:30 a.m.

Adjournment

Meeting adjourned at 10:30 a.m.

Mr. Worthams again requested members come to our next meeting prepared to work together.