

Date: August 15, 2006

**MINUTES**  
**KENTUCKY OCCUPATIONAL SAFETY and HEALTH STANDARDS BOARD**  
**PUBLIC MEETING**

**May 9, 2006**

A public meeting of the Kentucky Occupational Safety and Health (OSH) Standards Board, hereinafter referred to as Board, was held on May 9, 2006, at the Galt House East, Fourth Street and River Road, Louisville, Kentucky. Mr. Philip J. Anderson, Board Chairman and Commissioner, Department of Labor, presided. In addition to Chairman Anderson, members present were Ms. Pamela Chappell, Mr. Greg Conley, Mr. Donald Ecken, Mr. Curtis Foote, Mr. Don Goodman, Mr. David Hart, Ms. Helena Pitcock, Ms. Mary Sharp, Ms. Savannah Wade and Mr. Russell Wethington, Jr. Also, present representing the Department of Labor were the Honorable Kembra Sexton Taylor, Mr. Chuck Stribling, and Mr. David Stumbo.

Chairman Anderson called the meeting to order at approximately 1:35 P.M. E.T. The roll was taken and a quorum was established.

Chairman Anderson reminded the Board members who have not signed the Code of Ethics Statement of Agreement to read the Code of Ethics and sign and date it before leaving.

Chairman Anderson asked the Board members to introduce themselves and provide a brief biography. Chairman Anderson introduced Ms. Taylor, Attorney, Labor Legal Division, Office of Legal Services; Mr. Stumbo, Health Standards Specialist, Office of Standards Interpretation and Development; and, Mr. Stribling, Safety Standards Specialist, Office of Standards Interpretation and Development. Chairman Anderson introduced Mr. Steve Morrison, Executive Director, Office of Occupational Safety and Health. Mr. Morrison provided a brief overview of the Kentucky OSH Program. Mr. Morrison introduced Mr. Steve Sparrow, Director, Division of Compliance. Mr. Sparrow provided an overview of the division. Mr. Morrison introduced Mr. Ron Blackwell, Director, Division of Education and Training. Mr. Blackwell provided an overview of the division.

Chairman Anderson swore in new Board members, Mr. Russell Wethington, Ms. Mary Sharp, Mr. Curtis Foote, Mr. Greg Conley, Mr. David Hart and Ms. Helena Pitcock.

Chairman Anderson asked for approval of the August 18, 2005 minutes. Mr. Goodman made a motion, seconded by Ms. Wade, to approve the minutes. The motion passed unanimously.

Chairman Anderson asked Mr. Stribling to provide the Board an explanation of the first item being considered.

Mr. Stribling briefed the Board on the consideration of amendments to 29 CFR 1926.1002, Roll-Over Protective Structures; 29 CFR 1926.1003, Overhead Protection; Appendix A to Part 1926; 29 CFR 1928.51, Roll-Over Protective Structures; 29 CFR 1928.52, Protective Frames; 29 CFR 1928.53, Protective Enclosures; and Appendix B to Part 1928, as published in the Federal Register on December 29, 2005 and confirmed in the Federal Register on February 28, 2006. Mr. Stribling stated that, if adopted, the final rule would amend Kentucky Administrative Regulations 803 KAR 2:422 and 803 KAR 2:600.

Chairman Anderson asked for a motion to approve the amendments. Ms. Chappell made a motion, seconded by Mr. Ecken and Ms. Wade. Chairman Anderson asked if there were any questions or comments regarding these amendments. There being no comments, questions, or opposition, the motion passed unanimously.

Chairman Anderson asked Mr. David Stumbo to provide the Board an explanation of Agenda Item VII being considered.

Mr. Stumbo briefed the Board on the consideration of amendments to 29 CFR 1910.6, General; 29 CFR 1910.106, Hazardous Materials; 29 CFR 1910.142, General Environmental Controls; 29 CFR 1910.243, Hand and Portable Powered Tools and Other Hand-Held Equipment; 29 CFR 1910.254, Welding, Cutting and Brazing; and 29 CFR 1910.265, Special Industries, as published in the Federal Register on September 13, 2005. Mr. Stumbo stated that, if adopted, this final rule would amend Kentucky Administrative Regulations 803 KAR 2:300, 803 KAR 2:307, 803 KAR 2:309, 803 KAR 2:315, 803 KAR 316 and 803 KAR 2:317.

Chairman Anderson asked for a motion to adopt these amendments. Mr. Goodman made a motion, seconded by Ms. Wade. There being no comments, questions or opposition, the motion passed unanimously.

Chairman Anderson asked Mr. Stribling to provide the Board an explanation of 29 CFR Part 1926 Steel Erection; Slip Resistance of Skeletal Structural Steel.

Mr. Stribling briefed the Board on the consideration of the revocation of 29 CFR 1926.754(c)(3) and Appendix B, as published in the Federal Register on January 18, 2006. Mr. Stribling stated the final rule removes 29 CFR 1926.754(c)(3), reserves Appendix B to Subpart R of Part 192, and, if adopted, amends 803 KAR 2:417.

Chairman Anderson asked for a motion to adopt the rule. Mr. Ecken made a motion, seconded by Mr. Goodman. There being no questions, comments, or opposition, the motion passed unanimously.

Chairman Anderson asked Mr. David Stumbo to provide the Board an explanation of 29 CFR Parts 1910, 1915, et al. Occupational Exposure to Hexavalent Chromium; Final Rule.

Mr. Stumbo briefed the Board on the consideration of the adoption of 29 CFR 1910.1026, Air Contaminants; 29 CFR 1915.1026, Toxic and Hazardous Substances; 29 CFR 1917.1, Scope and Definitions; 29 CFR 1918.1, Scope and Application; 29 CFR 1926.1126, Toxic and Hazardous Substances; and 29 CFR 1926.55, as published in the Federal Register on February 28, 2006. If adopted, this final rule will amend 803 KAR 2:320, 803 KAR 2:500, 803 KAR 2:425 and 803 KAR 2:403.

Chairman Anderson asked for a motion to adopt this final rule. Ms. Pitcock made a motion, seconded by Mr. Wethington.

Before the final vote, Board members had questions. Mr. Hart asked Mr. Stumbo, "What is the expected content in stainless steel plates of Hexavalent Chromium that are used by welders in the sheet metal industries?" Mr. Stumbo stated he would not know the answer of the composition of Hexavalent Chromium in a piece of stainless steel. It could vary considerably. There could be different amounts of Hexavalent Chromium in the welding rods or loop and employers have to look at what their materials are composed of and the processes they have and there are requirements for that in each standard. Mr. Hart

asked if one could measure Hexavalent Chromium the same way for coatings such as using sticks to get a baseline of how much lead is in coatings. Mr. Stumbo stated that he was not aware of any type of wipe test for Hexavalent Chromium and stated that testing would consist of a breathing zone sampling. Mr. Stumbo stated that decisions to use specific respirators would be reflective of the actual exposure.

Mr. Ecken stated that the National Sheet Metal Contractors Association has followed this standard very closely as it applies to welding and stainless steel and stated that the Association is doing studies state by state to come up with some standards.

Mr. Conley asked Mr. Stumbo how employers are notified of new standards. Mr. Stumbo stated that the Occupational Safety and Health Administration (OSHA) publishes standards through the Federal Register. OSHA sends out various trade bulletins and announcements on their website. When the Kentucky Administrative Regulation (KAR) is changed, it is published in the Kentucky Administrative Register and will also be published on our website. Sometimes the Office of Occupational Safety and Health uses the Division of Education and Training's email database to inform employers.

Mr. Foote stated that the engineering control provision of this standard would be implemented four years from now and wanted to know if he was correct in his statement. Mr. Stumbo stated that the four-year wait is to make it easier for small employers because they will try to implement a new engineering control and it may make it worse so that is why a considerable amount of time is provided so that employers can be in compliance. Mr. Stumbo stated that engineering or administrative controls are any manner that can reduce exposure other than personal protective equipment. Engineering controls might be ventilation which is most common. Administrative controls might be switching to a different raw material. Mr. Stumbo stated that the other provisions of the standard will take effect earlier.

Chairman Anderson asked if there were any more questions or comments. There being no further questions or comments, the motion passed unanimously.

Chairman Anderson asked Mr. David Stumbo to provide the Board an explanation on the consideration of the adoption of Technical Amendments to 29 CFR Parts 1910, 1915, and 1926, as published in the Federal Register, April 3, 2006. These amendments will affect 803 KAR 2:306, 803 KAR 2:307, 803 KAR 2:308, 803 KAR 2:313; 803 KAR 2:317; 803 KAR 2:319, 803 KAR 2:320, 803 KAR 2:500, 803 KAR 2:403, 803 KAR 2:417, 803 KAR 2:418, 803 KAR 2:424, 803 KAR 2:425.

Chairman Anderson asked for vote for adoption of this final rule. Mr. Foote made a motion, seconded by Mr. Ecken. There being no questions or comments, the motion passed unanimously.

Chairman Anderson asked for a discussion of Old Business regarding the August 18, 2005 Board meeting where the Board approved a residential fall protection standard that has been adopted as 803 KAR 2:412. In the discussion at the August meeting, it was mentioned that there would be a Residential Construction Committee formed to review the amendments to the residential fall protection standard that was approved. Chairman Anderson stated that a Construction Safety Conference most likely would be held in November of 2006 and he anticipated getting the Residential Construction Committee together at that point to review how the standard has affected residential fall protection in Kentucky.

Chairman Anderson asked for a discussion of New Business. Chairman Anderson stated that during the 2006 General Assembly, the Governor signed House Bill 387, which changed the Standards Board meetings from twice a year to once a year, or as necessary. The Standards Board will now only be required to meet one time per year and it will typically be at the Governor's Safety and Health Conference in May. The House Bill also allows the Chairman of the board to adopt established federal standards without board

approval, if necessary, to meet federal time requirements. The board, not the Chairman, still retains the authority to repeal or modify existing standards. Chairman Anderson provided the board members with a copy of KRS 338 which affects the Standards Board.

Chairman Anderson also stated under New Business that the board needed to elect a Chairman Pro Tem, a member of the Standards Board who would act as Chair in his absence. Chairman Anderson recommended Ms. Chappell to be considered since she is the senior member. Chairman Anderson asked for a motion that Ms. Chappell be considered Chairman Pro Tem. A motion was made by Ms. Pitcock, seconded by Mr. Hart. There being no opposition, the motion passed unanimously.

There being no further discussion, Chairman Anderson asked for a motion to adjourn. Ms. Wade made a motion, seconded by Mr. Wethington. The meeting adjourned at 3:30 p.m. E.T.