

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

A public meeting of the Kentucky Occupational Safety and Health (OSH) Standards Board, hereinafter referred to as Board, was held on May 8, 2007, at the Galt House East, Fourth Street and River Road, Louisville, Kentucky. Mr. Philip J. Anderson, Chair 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, Ms. Helena Pitcock, Ms. Mary Sharp, Ms. Savannah Wade and Mr. Russell A. 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 introduced Mr. Lynn Clem as the new director of the Division of Education and Training as well as Mr. Steve Sparrow, director of the Division of Compliance, and Mr. Steve Morrison, executive director of the Office of Occupational Safety and Health.

Chairman Anderson asked for approval of the May 9, 2006 minutes. Mr. Goodman made a motion, seconded by Ms. Wade, to approve the minutes. The motion passed unanimously.

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

Mr. Stribling briefed the Board on the consideration of adoption of technical amendments to Subpart W of 29 CFR Part 1926 as published in the Federal Register on July 20, 2006. Mr. Stribling stated that, if adopted, the final rule would amend Kentucky Administrative Regulation 803 KAR 2:422.

Chairman Anderson asked for a motion to approve the adoption. Mr. Foote made a motion, seconded by Ms. Pitcock. Chairman Anderson asked if there were any questions or comments. There being no comments, questions, or opposition, the motion passed unanimously.

Chairman Anderson asked if there was any discussion of old business. There being none, Chairman Anderson asked for a discussion of new business. Chairman Anderson asked Mr. David Stumbo and Mr. Chuck Stribling to explain several standards that were adopted during the interim since the May 9, 2006, Board meeting.

Mr. Stumbo stated that there were three occupational health items adopted under the authority of Chairman Anderson and that an explanatory letter along with the Federal Registers were mailed to board members. The first item adopted was Occupational Exposure to Hexavalent Chromium, Corrections, Federal Register, June 23, 2006. Chairman Anderson adopted on August 24, 2006 and became effective January 5, 2007. The second item adopted was the Respiratory Protection Assigned Protection Factors and Maximum Use Concentrations issued in the August 24, 2006 Federal Register. Chairman Anderson adopted January 2, 2007 and went into effect February 24, 2007. The third item adopted under the authority of Chairman Anderson was Updating National Consensus Standards and OSHA's Standard for

Fire Protection in Shipyard Employment. Chairman Anderson adopted January 2, 2007 and will go into effect July 3, 2007. Mr. Stumbo asked if there were any questions on the three items. There was no response.

Next, Mr. Stribling briefed the board on the February 14, 2006, Final Rule that revised OSHA's general industry electrical standards found in 29 CFR 1910, Subpart S. The revision is the first update of the electrical standards since they were published in 1981. It addresses guarding and insulation of live parts, grounding of equipment closures, and over-current protection of circuits. The revisions update those requirements to make them consistent with the 2000 edition of National Fire Protection Association 70E, Standard for Electrical Safety in the Workplace.

The changes found in this revision generally fall into four (4) categories. They are:

- 1) Changes in hardware specifications that are consistent with National Electrical Code requirements. Essentially, these changes are already in effect since virtually all equipment manufacturers routinely follow current National Electrical Code requirements regarding hardware specifications.
- 2) Changes in installation practices that are consistent with current, normal and customary installation practices routinely followed by licensed electricians. Here again, these changes are essentially already in effect since virtually all licensed electricians routinely follow National Electrical Code requirements for installing electrical systems and equipment.
- 3) Clarification of the existing requirements by simply restating or eliminating outdated requirements.
- 4) Requirements that may require significant changes in electrical system and equipment installation practices. In order to avoid having employers incur the costs of retrofitting existing electrical systems and equipment, the revision to Subpart S grandfathers existing electrical systems and equipment installations from having to comply with these new requirements. The revised requirements will only apply to new installations; that is, electrical systems and equipment installed for the first time, as well as installations that represent a major replacement, modification, repair, or rehabilitation of an existing electrical system made after the effective date this rule. Once again, this requirement is essential in effect since National Electrical Code requirements are followed when installing new electrical systems and equipment.

Mr. Stribling stated that although the revision is significant, it is nothing new to the Commonwealth. Kentucky has already passed mandatory minimum building or fire codes specifying that new construction, including new electrical installations, must meet or exceed the requirements of the 1999 or 2002 National Electrical Code. Thus, employers will be unaffected by the revision with respect to new installations.

Mr. Stribling stated that the final rule amends 803 KAR 2:318. Mr. Stribling asked if there were any questions. There were none.

Also under new business, Chairman Anderson introduced Mr. Steve Sparrow, Director, Division of Compliance. Mr. Sparrow discussed the positive impact of the Kentucky Fall Protection Standard for residential construction since it became law. There have been fewer deaths and the complete impact of the standard cannot be measured as the Bureau of Labor Statistics has not released the injury and illness rates for 2006. That information will be released October 17, 2007. Mr. Sparrow stated that in 2004 and 2005 measures were instituted to bring a heightened attention both to OSH Compliance Staff and to the regulated residential construction community that enforcement of OSH Standards was going to be actively enforced in this industry sector. A special emphasis program began July 1, 2005, which consisted of additional training of staff and training seminars were conducted across the Commonwealth on standards

applicable to residential construction, which were provided by the Division of Education and Training free of charge to employers and employees. Mr. Sparrow stated that since the standard went into effect in January 2006, the Division of Compliance has not had to respond to a single reported fatality in the residential sector that would be covered by the new Fall Protection Standard for residential construction.

Mr. Sparrow stated that adjustments were made to the procedures for calculation of penalties in the Division of Compliance, which became effective January 1, 2007. There were no changes to Kentucky Revised Statutes (KRS) 338, which authorizes the maximum penalty amounts for violations of Occupational Safety and Health Standards. KRS 338 allows up to \$7,000 for a Serious, up to \$7,000 for an Other-than-Serious, up to \$70,000 for a Willful or Repeat Violation and a Willful may not be less than \$5,000, and Failure to Abate up to \$7,000 per day. Mr. Sparrow explained the summary of the changes of the penalty structure, changes in the penalty calculations, and changes in penalty adjustment factors.

Chairman Anderson asked if there were any question and there was no response. There being no further discussion, Chairman Anderson asked for a motion to adjourn. Mr. Ecken made a motion, seconded by Ms. Pitcock. There being no comments, questions, or opposition, the motion to adjourn was unanimous. The meeting adjourned at 1:52 p.m. E.T.