



MINUTES
KENTUCKY OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
PUBLIC MEETING

The annual meeting of the Kentucky Occupational Safety and Health (OSH) Standards Board was held in the Breathitt Room at the Galt House in Louisville, Kentucky on Tuesday, May 8, 2012 at 1:30 p.m.

Chairman Mark Brown called the meeting to order. All new members were sworn in. Ms. Heather Damron called the roll. The following members were in attendance: Mr. Van Mitchell, Mr. Vaughn Plummer, Ms. Diane Snow, Ms. Donna Haynes, Mr. Ron Lynch, Mr. Steven Stone, Ms. Michelle Barnett, Mr. Rand Chrisman, Mr. David Hart, Mr. Michael Neason, and Ms. Donna Ringo.

Chairman Brown introduced Ms. Katie Gabhart, General Counsel for the Executive Branch Ethics Commission. Ms. Gabhart briefed the board members regarding their ethical responsibilities. A hand out was distributed containing overviews of both the 2008 and 2009 Executive Orders. The 2008 Executive Order mandates that board members may not enter into contracts with the OSH Standards Board or other board members. Board members are also obligated to disclose when they feel they have a conflict of interest, either real or perceived, and to abstain from participating in any related conversations. This disclosure should be made during a board meeting or submitted to the Chairman in writing prior to the meeting so it may be entered into the minutes. Lastly, board members are not allowed to accept gifts valued over \$25 in a calendar year from a single source. Ms. Gabhart asked for questions. None were asked.

Chairman Brown introduced Ms. Susan Draper, Director, Division of OSH Compliance. Ms. Draper summarized the functions of the division. The primary function of the Division of Compliance is to ensure employers provide a safe and healthful working environment for employees. This is done through inspections based on employee complaints, as part of general scheduled inspections, or as unannounced inspections. Inspections are always conducted in instances of fatalities or catastrophes (whereby three (3) or more employees are hospitalized during a single incident). When exposures to hazards are found or there are violations to the OSH Standards, the employer may be subject to citations and fines. Violations may be classified non-serious or serious and penalties may assessed up to a maximum of \$7,000. Willful violations may carry a penalty up to \$70,000; repeat violations increase the cost of the initial penalty; and failures to abate also carry a greater penalty. In 2011, over 1,000 inspections were conducted that covered over 60,000 employees. The division took in over \$1,500,000 in penalties. OSH Compliance currently staffs twenty-three (23) safety inspectors, fourteen (14) industrial hygienists, and two (2) discrimination specialists. These latter specialists investigate claims for employees who have voiced their safety concerns with their employers or have filed a



complaint with our office and who feel they have been discriminated or retaliated against because of their claims. The Chairman called for questions. There were no questions.

Chairman Brown then recognized Ms. Kimberlee Perry, Director, Division of OSH Education and Training. Ms. Perry described the activities of the division. The division offers, upon request, free consultative safety and health surveys for employers. Currently, there is a staff of ten (10) industrial hygienists and (10) safety consultants who conduct full or partial surveys or audits. Hazards found at that time are not assessed penalties or citations. The Division of OSH Education and Training also offers various training classes. An online Adobe Connect training program was recently initiated. This program allows employers and employees to view various modules at their leisure. The division also provides various partnership opportunities. Ms. Perry asked for questions. There were none.

Chairman Brown moved on to approval of the May 10, 2011 meeting minutes. The Chairman asked for additions or corrections; there were none. Chairman Brown asked for a motion to approve the minutes. Ms. Haynes made the motion, seconded by Mr. Lynch. The motion passed unanimously.

Chairman Brown called for Old Business. There was none.

Chairman Brown called for nominations to elect a Chairman Pro Tem should he be unavailable. Ms. Haynes nominated Mr. Steven Stone. No other candidates were nominated. Chairman Brown asked for a motion to cease nominations and for Mr. Stone to be nominated by acclamation. Mr. Plummer made the motion; seconded by Ms. Haynes. The motion passed unanimously.

Chairman Brown recognized Ms. Kristi Redmon, CIH, CSP, Health Standards Specialist, Kentucky Labor Cabinet to present consideration of adoption of amendments regarding hazard communication standards conforming to the "United Nations' Globally Harmonized System (GHS) of Classification and Labeling of Chemicals" final rule published in the March 26, 2012 *Federal Register*. Ms. Redmon noted that due to the physical bulk of the rule, an internet link was provided to all members prior to the meeting for review. Additionally, due to the extensive number of changes to the regulations, Ms. Redmon presented only a summary of the modifications noted in the final rule. These changes are required by OSHA in order to ensure global consistency with United Nations guidelines. OSHA's final rule modifies the classification and labeling of chemicals which in turn affect the Hazard Communications Standard. Other standards affected include Flammable and Combustible Liquid Regulations, Process Safety Management, and most substance specific health regulations. All changes are primarily related to definitions and changes in warning labels and signage. All revisions set by the final rule affect general industry standards, construction industry standards, and maritime industry. Definitions of this standard are being reformatted and new information is being required for Safety Data Sheets. Required new information includes seven (7) items: 1) the product name or identifier; 2) a pictogram of the appropriate hazard class; 3) a signal word (such as danger or warning); 4) a hazard statement (such as fatal or swallow); 5) precautionary information (including first aid); 6)



supplier information; and 7) any supplemental information from the manufacturer. Under the new rule, there are 10 health hazard and 16 physical classifications under the GHS classes. OSHA has added its own three (3) classes: simple asphxiants; combustible dust; and pyrophoric gases. An additional class for "Hazards Not Otherwise Classified" has also been added. Chemical Hazard classification changes ensure consistency among all chemical manufacturers under the GHS guidelines. Appendix C of the standard requires employers to adhere to mandatory labeling information specifications. Material Safety Data Sheets will now be called Safety Data Sheets and will have 16 different headings. Four (4) of the 16 headings are required by GHS but not by OSHA as they are not under OSHA's jurisdiction: ecological information; dispersal considerations; transport information; and regulatory information. The final rule requires training implementation by December 1, 2013. By this date, employers must train affected employees on the new label elements and new Safety Data Sheet formats. Labels and Safety Data Sheets must comply with the new requirements by June 1, 2015. Employers will be allowed until June 1, 2016 to update other things such as Hazard Communication Programs or workplace signs. The Kentucky OSH Program is also recommending that a state specific regulation be adopted for 4-4 methylene bis (2-Chloroaniline), also known as MOCA, in order to bring consistency between the federal and KY OSH regulations. This amendment removes labeling requirements and replaces them with the requirement to label MOCA in accordance with 29 CFR 1910.1200: Hazard Communication Standard. The final rule amends 803 Kentucky Administrative Regulations 2:300, 2:307, 2:316, 2:320, 2:403, 2:405, 2:425, and 2:500.

Chairman Brown asked for questions and there being none, called for a motion to adopt the final rule. Mr. Stone made the motion, seconded by Ms. Ringo. The Chairman asked for further discussion or questions and being none, called for a vote. The motion passed unanimously.

Chairman Brown recognized Mr. Bob Elkins, Safety Standards Specialist, Kentucky Labor Cabinet to brief he board regarding "Final Rule Correcting and Making Technical Amendments to 16 OSH Standards," final rule published in the December 27, 2011 *Federal Register*. The substance of the amendment does not affect the substantive requirement of the standards but is merely a proofreading of the standards (correcting typos, adding references, and changing cross reference numbers). This final rule amends 803 KAR 2:307, 2:309, 2:313, 2:317, 2:319, 2:320, 2:500, and 2:403.

Chairman Brown asked for questions and there being none, called for a motion to adopt the final rule. Ms. Haynes made the motion, seconded by Mr. Hart. The Chairman asked for further discussion or questions and being none, called for a vote. The motion passed unanimously.

Chairman Brown again recognized Mr. Bob Elkins to brief the board regarding the "Acetylene Standard" final rule published in the December 5, 2011 *Federal Register* and confirmed in the March 8, 2012 *Federal Register*. Mr. Elkins advised the final rule adopts the most current edition of the Compressed Gas Association Handbook. This final rule amends 803 KAR 2:300 and 2:307.



Chairman Brown asked for questions and there being none, called for a motion to adopt the final rule. Mr. Hart made the motion, seconded by Ms. Haynes. The Chairman asked for further discussion or questions and being none, called for a vote. The motion passed unanimously.

Chairman Brown called on Mr. Elkins to brief the board regarding the “Technical Amendments to the Construction Material Handling Standard” final rule published in the April 18, 2012 *Federal Register*. This amendment removed 18 tables from the standard and kept only two (2) which allows users to rely on the manufacturer’s label and information for its use. Also, the amendment mandates that if the sling does not have a label it must be removed from service. These changes affect Code of Federal Regulations 29 CFR 1926.251. This final rule amends 803 KAR 2:407.

Chairman Brown asked for questions and there being none, called for a motion to adopt the final rule. Mr. Lynch made the motion, seconded by Ms. Haynes. The Chairman asked for further discussion or questions and being none, called for a vote. The motion passed unanimously.

Chairman Brown then introduced Mr. Chuck Stribling, CSP, OSH Federal-State Coordinator; and Mr. Jim Grider, Staff Attorney, Kentucky Labor Cabinet.

Chairman Brown asked for announcements or comments. There were none. Chairman Brown then adjourned the meeting.