



KENTUCKY OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Public Meeting Minutes
May 5, 2015

The annual meeting of the Kentucky Occupational Safety and Health (OSH) Standards Board, hereinafter referred to as Board, was held at 1:30 p.m., Tuesday, May 5, 2015 in the Carroll-Ford Room at the Galt House in Louisville.

Chairman Larry L. Roberts called the meeting to order and swore in new members, Mr. Howard “Butch” Collins, Mr. Barry Holder, Ms. Shea Lowe, and Mr. Neil McElroy.

Ms. Amy Tennill called the roll. Members attending were Ms. Michelle Barnett, Mr. Randy Chrisman, Mr. Collins, Ms. Donna Haynes, Mr. Holder, Ms. Lowe, Mr. Ron Lynch, Mr. McElroy, and Mr. Steven Stone. Ms. Donna Ringo arrived shortly after roll was called.

Chairman Roberts called for comment or questions of the May 6, 2014 minutes. There being no comments or questions, Chairman Roberts asked for a motion to approve. Motion made by Ms. Haynes, seconded by Mr. Stone. The motion passed unanimously.

Chairman Roberts called for Old Business. There was none.

Chairman Roberts recognized Mr. Mike Pettit, Safety Standards Specialist, Labor Cabinet, to present for consideration the amendments published in the September 26, 2014 *Federal Register* revising the deadline for crane operator certification requirements. Mr. Pettit reported the amendment extends the operator certification deadline subject to 29 CFR 1926.1427(k)(2)(i) and 29 CFR 1926.1429(k)(2)(ii). Mr. Pettit stated the OSH Program supports the adoptions of this final rule. The final rule amends 803 KAR 2:505 if adopted by the Board.

Chairman Roberts asked for questions and there being none, called for a motion to adopt the final rule. Motion made by Mr. Stone, seconded by Ms. Haynes. The motion passed unanimously.

Chairman Roberts then recognized Ms. Kristi Redmon, CIH, CSP, Health Standards Specialist, Labor Cabinet, to proceed to the next item for consideration, amendments published in the July 1, 2014, *Federal Register* correcting typographical errors in the vehicle mounted platforms and logging operations standards. Ms. Redmon reported that typographical errors were found in 29 CFR 1910.67 which incorrectly referred to the Automotive Welding Standards Society rather than the American Welding Standards Society; and in 29 CFR 1910.266 which erroneously referenced 29 CFR 1910.68 instead of the proper standard 29 CFR 1910.67. Ms. Redmon stated the OSH Program supports the adoptions of this final rule which amends 803 KAR 2:307 and 803 KAR 2:317 if adopted by the Board.



Chairman Roberts asked for questions and there being none, called for a motion to adopt the final rule. Motion made by Ms. Chrisman, seconded by Mr. Collins. The motion passed unanimously.

Ms. Redmon presented the next item for Board consideration, amendments correcting errors made in the text of the April 11, 2014 *Federal Register* final rule for electric power generation, transmission, and distribution standard as published in the September 24, 2014 *Federal Register*. Ms. Redmon reported that amendments were made to correct the decision-making flowchart and Appendix A-2 of 29 CFR 1910.269. Corrections were also made to the footnotes in multiple tables throughout the regulation. Additional amendments corrected the regulatory text of 29 CFR 1910.269 which re-established ladder strength requirements for portable ladders. Ms. Redmon stated the OSH Program supports the adoptions of this final rule. The final rule amends 803 KAR 2:317 and 803 KAR 2:421 if adopted by the Board.

Chairman Roberts asked for questions and there being none, called for a motion to adopt the final rule. Motion made by Ms. Ringo, seconded by Mr. Snow. The motion passed unanimously.

Chairman Roberts asked Ms. Redmon to proceed to the next item on the agenda, language correcting the Code of Federal Regulations related to exit routes as published in the December 23, 2014 *Federal Register*. Ms. Redmon stated that this was an informational item only and that there was no vote needed upon this matter. She reported that changes to 29 CFR 1910.36 made in 2011 were not published and the error was not noticed until 2014.

Chairman Roberts recognized Commissioner Anthony Russell, Department of Workplace Standards, to present the proposed amendment of 803 KAR 2:250 that clarifies the application of the discrimination process.

Commissioner Russell reported the proposed amendment stemmed from a decision made by the Kentucky Court of Appeals ruling which held that employees were protected from OSH discrimination for only those complaints made directly to the OSH Program. If an employee verbally complained to his or her employer, he or she is not protected. The Labor Cabinet disagrees wholeheartedly with the decision and is pursuing additional judicial review. The court's decision renders Kentucky not as effective as OSHA. Therefore, to ensure Kentucky is as effective as, the proposed amendment changes the definition of "complaint" to include any oral or written occupational safety and health concern brought to the attention of the employer or a government agency as a protected activity under the discrimination regulation. If adopted, the amendment updates 803 KAR 2:250.

Chairman Roberts asked for questions or comments. There was discussion from Mr. Holder and he motioned to adopt the changes. Ms. Haynes seconded; the motion passed unanimously.



Chairman Roberts then asked Commissioner Russell to inform the board of the injury and illness recordkeeping and reporting requirements as published in the September 18, 2014 *Federal Register*. He also noted that this was for informational purposes and no action would be taken on this item.

Commissioner Russell advised the Board that OSHA's September final rule changed recording requirements for employers in regard to what employers must maintain the 300 log. The final rule added 63 additional industries that will be newly required to record work-related injuries. The Kentucky OSH Program is required to adopt these changes in order to be as effective as OSHA and did so. The changes will be effective January 1, 2016.

Commissioner Russell explained that since 2006 Kentucky OSH has required the reporting of all hospitalizations and amputations within 72 hours. OSHA's revised rule requires hospitalizations and amputations to be reported 24 hours. Kentucky OSH's rule will remain at 72 hours. Lastly, OSHA's rule includes a definition and reporting time for the loss of an eye. Kentucky will add this requirement and it will be effective January 1, 2016.

Chairman Roberts asked Mr. Chuck Stribling, CSP, OSH Fed-State Coordinator, to review a new item concerning confined spaces in construction.

Mr. Stribling explained that a confined space rule was published in the *Federal Register* earlier today, May 5, 2014. Labor Cabinet staff have not had an opportunity to review the new information and compare it with Kentucky's long standing rule. Mr. Stribling wanted to make the board aware of its existence should they be questioned. Appropriate action will be taken after review of the rule.

Chairman Roberts advised the next two weeks would be dedicated to the National Stand-Down to Prevent Falls campaign and informed the Board of campaign events. He then introduced Mr. Kurt Petermeyer, Region IV Administrator, and Mr. Bill Cochran, Area Director, OSHA.

There being no further business, Chairman Roberts adjourned the meeting.