



May 1, 2019

Attorney General Dana Nessel  
Office of the Attorney General  
State of Michigan  
P.O. Box 30212  
Lansing, MI 48909

EMAIL: [miag@michigan.gov](mailto:miag@michigan.gov)

Dear Attorney General Nessel:

We are writing to express serious concerns about the Michigan Occupational Safety and Health Administration (MIOSHA). A series of investigations by the *Detroit Free Press* reveal practices that are inconsistent with the agency's mission. These include retaliation against agency inspectors, partiality to employers, and monetary penalty amounts that do not have a deterrent effect.

We commend your initiative to examine all aspects of recent MIOSHA rulings, which we believe will require a thorough review of the practices of MIOSHA's current leadership. We urge you to interview current and former MIOSHA staff, as well as family members, co-workers and union representative, if available, of workers who suffered fatal work-related injuries in Michigan. Such individuals may provide your office with insight into MIOSHA's level of effectiveness and possible opportunities for improvement. In particular, the agency's competence in ensuring that employers are held responsible and accountable for providing Michigan's workers jobs that are safe and healthy.

The *Detroit Free Press* reported in January 2019 on the ways in which MIOSHA acquiesced to the influence of developers and construction firms in the City of Detroit. This month, the paper reported on the decision of MIOSHA's leadership to classify the work-related death of electrician Michael Morrison, 46, as a suicide, ignoring the determination of a state medical examiner. This incident is particularly egregious given the reported maltreatment of the MIOSHA inspector who investigated Mr. Morrison's death. The agency appears to be more interested in low-balling its count of work-related fatalities than its responsibility as an enforcement agency. We wonder how many other serious or fatal work-related injuries and illnesses are improperly dismissed by MIOSHA. A public safety and health agency cannot be effective if it makes decisions that skew its data. We urge your office to look for incentives---overt, implied or otherwise---that may influence MIOSHA's policies, practices and decisions.

Our concerns extend beyond the incidents reported by the *Detroit Free Press*. According to the most recent evaluation by the U.S. Department of Labor (DOL/OSHA), the monetary penalties proposed by MIOSHA to employers who violate health and safety standards are below levels deemed acceptable. Based on a two-year national average, DOL/OSHA considers a proposed monetary penalty of \$1,887 to \$3,146 to be within an acceptable range for a serious violation. MIOSHA's average for fiscal year 2017 was only \$1,165. DOL/OSHA also sets acceptable ranges for a serious violation depending on the number of employees at a worksite. DOL/OSHA, for example, considers a proposed monetary penalty of \$2,964 to \$4,940 to be within an acceptable range for a serious violation at a workplace with 101-250 employees. MIOSHA's average for this metric was only \$1,796. The DOL/OSHA evaluation also indicates deficiencies in the number of safety and health inspectors on-staff at MIOSHA. The agency's staffing is significantly below the DOL/OSHA benchmark of 56 safety inspectors and 45 health inspectors. In fiscal year 2017, MIOSHA had 35 and 20 individuals in those positions, respectively.

Workplace injuries and illnesses are very preventable. State OSHA programs have the opportunity to set best practices and to be a leader in this field. MIOSHA has been a leader in the past, but these recent investigations have pointed to a downward enforcement pattern.

Members of the National COSH team are available to meet with you or your staff to discuss these critical issues that affect the lives and health of Michigan workers. Please let us know if we can be of assistance in assuring that every worker's right to a safe workplace is protected.

Sincerely,

Peter Dooley  
National Council on Occupational Safety & Health  
1866 E Huron Dr  
Bois Blanc Island, MI 49775  
734-320-5160