



Chemical Safety and Hazard Investigation Board

OFFICE OF GENERAL COUNSEL

Memorandum

To: Board Members

From: Kara Wenzel, Assistant General Counsel *KW*

Cc: Leadership Team

Subject: Board Action Report – Urgent Notation Item 2015-39

Date: June 17, 2015

On June 11, 2015, the Board approved Urgent Notation Item 2015-39. The item provides for the delegation of administrative and executive authorities to Members Engler and Ehrlich, in accordance with Board Order 003, during the vacancy of the Chairperson, as indicated in the attached item.

Voting Summary – Urgent Notation Item 2015-39

Disposition: APPROVED

Disposition date: June 11, 2015

| | Approve | Disapprove | Calendar | Not Participating | Date |
|------------|---------|------------|----------|-------------------|-----------|
| M. Griffon | X | | | | 6/11/2015 |
| M. Ehrlich | | | X | | 6/11/2015 |
| R. Engler | X | | | | 6/11/2015 |

**U.S. Chemical Safety and
Hazard Investigation Board**

Hon. Mark Griffon
Board Member

Hon. Manuel Ehrlich, Jr.
Board Member

Hon. Rick Engler
Board Member



**CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD
MEMBER VOTING RECORD**

Notation No.: 2015-39

Voting Period: Urgent Notation Item – Voting period June 11, 2015 – June 16, 2015

Subject: Delegation of administrative and executive authorities during a vacancy in the Chairperson in accordance with Board Order 3

Whereas:

- 1) The position of CSB Chairperson became vacant on March 27, 2015;
- 2) The Board is mindful of the need to ensure the efficient administration of the agency until such time as a new Chairperson is confirmed by the Senate and appointed by the President;
- 3) The Department of Justice Office of Legal Counsel, on April 19, 2002, provided an opinion on the delegation of administrative and executive authorities while the position of Chairperson is vacant and said that “The unavailability of a Chairperson may mean that action necessary to the continued operation of the Board is in danger of not being performed at all” and that “...during the vacancy in the position of Chairperson, the Board may assign its executive and administrative authority to a single member”;
- 4) The Inspector General issued a 2002 report on CSB management finding that the division of power between members during a Chairperson vacancy led to an “untenable governance situation”; and
- 5) According to Board Order 003, “Interim Operating Protocol During a Vacancy in the Position of Chairperson”, which the Board reinstated on May 6, 2015, the executive and administrative authority of the CSB must be carried out until such time as a new Chairperson is appointed by the President and that “In no event, however, shall the Board fail to make a delegation of executive and administrative authority pursuant to this Order during any time when the position of Chairperson is vacant.” And
- 6) Section 12b of Board Order 003 provides for a means to extend or rescind the initial delegation of authorities which expire after 180 days. The Order, however, did not account for a situation in which a majority vote may not be achieved (2 or 4 Board Members).

Therefore pursuant to its authority, the Board hereby votes to:

- 1) Rescind the delegation of administrative and executive authorities to Member Griffon (Notation Item 2015-26);
- 2) Delegate to Member Engler the specific administrative and executive functions specified in CSB Board Order 003, Section 8; and
- 3) Delegate to Member Ehrlich the authority to supervise and oversee the CSB Equal Employment Opportunity (EEO) Director and the CSB EEO Office, as specified in CSB Board Order 003, section 9.b.

These delegations of administrative and executive authorities approved herein shall come into effect upon passage and shall remain in effect until such time as a Chairperson is appointed or a majority of the Board votes to amend this delegation.

_____ I **APPROVE** this notation item **AS PRESENTED**.

_____ I **CALENDAR** this notation item for discussion at a Board meeting.
_____ *Some of my concerns are discussed below or on the attached memorandum.*

_____ I **DISAPPROVE** this notation item.
_____ *A dissent is attached.*
_____ *I will not file a dissent.*

_____ I am **NOT PARTICIPATING**.

Date: _____

Member: _____