

U.S. Chemical Safety and Hazard Investigations Board

Business Meeting

March 12, 2019

CSB Headquarters Office - Washington, DC

U.S. CHEMICAL SAFETY BOARD MEMBERS PRESENT:

KRISTEN KULINOWSKI, INTERIM EXECUTIVE AUTHORITY

MANNY EHRLICH, MEMBER

RICK ENGLER, MEMBER

STAFF PRESENT:

Tom Zoeller, Acting General Counsel

MEMBER KULINOWSKI: Good morning. We'll now call to order this business meeting of the U.S. Chemical Safety Board, CSB. Today we meet in open sunshine, as required by the Government in the Sunshine Act, to discuss the operations and agency activities. I am Kristen Kulinowski, Interim Executive Authority of the Board. Joining me today are Board Members Manny Ehrlich and Rich Engler. Also joining us is Tom Zoeller, our Acting General Counsel, and other members of the staff.

CSB is an independent, non-regulatory federal agency that investigates major chemical incidents at fixed facilities. These investigations examine all aspects of chemical incidents, including physical causes related to equipment design, as well as inadequacies in regulations, industry standards, and safety management systems. Ultimately, we issue safety recommendations which are designed to prevent similar accidents in the future.

Before we get too far along, I'd like to highlight some safety information. So please take a moment to note the locations of the exits at the side and back of the room and you'll be directed to a safe location if we have to evacuate.

I also ask that you please mute cellphones so that these proceedings are not disturbed. Thank you.

For those of you joining us remotely, we are working with a new system today, so I hope that everything works smoothly for you. You should be able to hear everything and then be able to, at the end of the session, when we open up to public comment, to click the hand-raise icon to indicate that you'd like to make a statement. And then Ms. Cohen[?] will unmute the line for you to ask your question. We'll review all that when we get to that point.

Today's agenda for New Business includes the Chemical Incident Reporting Rule, the release of CSB's new Safety Spotlight, hard copies of which are available at the sign-in table, an overview of our activities from the CSB's 20<sup>th</sup> anniversary, and a tribute to Women's History Month.

If you are in the room and think you want to make a public comment at the end of the meeting, please sign up using the yellow sheets at the registration table and we'll review those instructions for people online, as I said, at the end. You may also submit public comments by email to [meeting@csb.gov](mailto:meeting@csb.gov) to be included in the unofficial record. Sorry...in the official record.

All right, I'd like to start with some news about CSB's budget. Some of this is hot off the presses. CSB received \$12 million in funding for Fiscal Year 2019, this fiscal year. This is the first increase in CSB's appropriation since 2013 and

demonstrates strong congressional support for our mission. Fiscal Year 2019 ends on September 30<sup>th</sup> of this year and we are using these funds to conduct our investigations, recommendations, and outreach work. We're also using the funding to hire new staff, primarily investigators.

On that note, we anticipate very soon that a new job announcement posting will be live for incident investigators and those of you who are interested, watch for more specific details on where you can go to apply.

On behalf of the agency, I want to thank the members and staff of our Congressional Appropriations Committees for their continued support of the agency and its mission.

On Monday, just yesterday, the administration submitted its budget proposal for Fiscal Year 2020. The administration is again recommending the elimination of the CSB and its budget would propose funds sufficient for the orderly closing of the agency. As many of you know, the agency has concurrent budget authority. So the CSB submitted our budget to the Congress that asks for continued funding at \$12 million, same operation going forward.

We appreciate, as I said before, the continued support of the Congress and look forward to working with our Appropriations Committees as they consider funding for Fiscal Year 2020.

Now I'd like to give a brief update of our investigations. We're not going to go through each investigation individually. For those in the room, there are handouts at the sign-in area and the document is posted on the Events section of our website.

But I would like to highlight one of our more recent investigative activities and that is CSB's Combustible Dust Call to Action. As part of the Didion Milling investigation, the CSB created a Call to Action Questionnaire. The purpose and scope of the project is to explore dust explosions from multiple industry perspectives, to better understand the actions taken by those who work in dusty environments.

The CSB received 57 responses from multiple industries that manage combustible dust. Industry groups that responded include plastics, chemicals, grain, food, petroleum, and metal. Individual respondents included engineers, researchers, consultants, suppliers, safety advisors, managers, regulatory affairs officers, company owners and presidents, policy advisors, multiple unions, industry councils, a regulator, and standard setting body. The responses came from sources within the United States, as well as 13 foreign countries.

We were pleased with these responses and we're now working to analyze the results. An outline of findings will be developed into a report with proposed actions. So stay tuned for that.

Now I will turn it over to Member Engler to provide an update on our recommendations program, followed by Member Ehrlich reporting on ongoing audits by the EPA Office of Inspector General. Member Engler.

MEMBER ENGLER: Thank you, Chair Kulinowski. And I would just like to echo Chair's appreciation, on a bipartisan basis, to the...for the support of Congress in increasing our appropriation and indicating a confidence in our work as we move forward and try to help prevent chemical incidents.

So my report is on the recommendations function of the CSB. And issuing recommendations based on our findings of specific investigations is a core part of our mission, as is our follow-up to those recommendations in terms of the advocacy for them to be implemented.

CSB currently has a ration of 83%, or 682, recommendations closed and 17% in open status, or 138. Total recommendations issued is 820 over the course of the life of the CSB. The status of all these recommendations can be found on our website in the Recommendations section. Of course, that's CSB.gov.

Recommendations that have recently been voted on can be found on the Recent Recommendations Status Update page. Each recommendation has a Status Change Summary that describes the rationale for the Board vote. Usually, that's about two pages. Voting records for individual Board Members are in the About the CSB and Open Government sections of the CSB website.

In terms of Fiscal Year recommendations status, the year that begins...that began last October 1<sup>st</sup>, to date CSB has issued five new recommendations involving the Enterprise Pascagoula gas plant explosion, closed six recommendations—five acceptably, one with a note that it's no longer applicable—and has had six recommendations with acceptable responses or alternative responses. Those are not yet closed.

Recommendations that were voted on this fiscal year were from the following investigations. Packaging Corporation of America hot work explosion, Chevron Refinery fire, Airgas facility fatal explosion, West Fertilizer fire and explosion, Donaldson Enterprises fatal fireworks disassembly explosion and fire, CAI/Arnel chemical plant explosion, and lastly the BP Texas City refinery explosion.

Finally, I just want to thank Chuck Berg[?], the Director of Recommendations, and the rest of the recommendations staff for

their hard work put into following up the work that our investigations do and assessing...helping develop and assessing the progress toward adoption of our recommendations.

MEMBER KULINOWSKI: Member Ehrlich?

MEMBER EHRLICH: Thank you. Good morning. Thank you all for coming. I very much appreciate it. I have two Inspector General, IG, updates for you.

As of March 12<sup>th</sup>, 2019, the CSB is working with the Office of Inspector General on two audits, the first being the FISMA or Federal Information Security Modernization Act. CSB awaits the final report, expected in the coming weeks. And second, the Risk Assessment of the CSB purchase card. In February...on February 22<sup>nd</sup>, 2019 letter, the OIG notified CSB of the plans to begin its Risk Assessment of the CSB's purchase card usage during Fiscal Year 2018. As of March 8, 2019, CSB provided all requested documents.

Thank you.

MEMBER KULINOWSKI: Thank you, Member Ehrlich. Okay, this brings us to the New Business section of the meeting. I'll first address the Incident Reporting Rule Making.

In December, 2017, plaintiffs filed suit to compel the agency to issue a final rule on the Incident Reporting Requirements of our [inaudible]. The case is Air Alliance et. al. V. the CSB. In



February of this year, the Federal District Court ruled the CSB must issue a final Chemical Incident Reporting Rule within 12 months. Therefore, the agency is now facing a mandating rule making [inaudible].

In developing our budget request for Fiscal Year 2020, we have included funding to support the rule making process and the development of an incident database.

In 2009, the agency conducted an advanced notice of proposed rulemaking, or ANPRM, on this very topic. But the agency did not move forward with the rulemaking process. Since the ruling by the court, the agency staff have been reviewing the historical materials related to the ANPRM from 2009 and the court's recent order. And staff are developing a Notice of Proposed Rulemaking that we hope to issue by the summer. That should give us sufficient time to consider public comments and issue the final rule in February of 2020.

Now I'd like to turn to our newest Safety Spotlight. Today we are releasing a new Safety Spotlight entitled "The Importance of Industry Safety Guidelines, Codes, and Standards". This Safety Spotlight focuses on a number of critical industry safety codes and standards developed and issued by standard-developing

organizations, or SDOs, following incidents investigated by the CSB.

Highlighted recommendation recipients include the American Petroleum Institute, the National Fire Protection Association, the American Chemical Society, and the International Code Council.

The CSB Safety Spotlight highlights just a few examples of revised or newly-created industry codes and standards that are driving critical chemical safety change. We are also releasing a table detailing all the positive changes that SDOs have made stemming from acceptably closed CSB recommendations.

We are encouraged by these developments. As we often say, "Safety is a shared responsibility." SDOs play a critical role in the continuous improvement that is needed to drive chemical safety change and it is our pleasure at CSB to highlight successes that derive from our recommendations. Next slide.

I'd now like to discuss the CSB's 20<sup>th</sup> Anniversary that we celebrated last year and the activities that took place over the course of that year. Each month in 2018, CSB highlighted a different safety issue, including process safety management, safe hot work practices, combustible dust safety, extreme weather, preventive maintenance, contractor safety, laboratory safety, winterization, emergency planning and response, and human fatigue

and reactive hazards. Information on each of these issues can be found on our website at CSB.gov.

It was truly an exciting year. I've worked these themes into every outreach talk that I gave and it was a nice way to cover a whole range of issues that the CSB cares about, that go beyond the ones we've identified on our Drivers of Critical Chemical Safety Change, and each one had its own social media campaign connected to it. And it was an opportunity to bring attention to these important issues.

So I'm so pleased that we were able to highlight these areas in 2018. And you can go to our website and read more about any one of these [inaudible].

Last but not least, the CSB would like to acknowledge Women's History Month, March 2019. The CSB is fortunate to have many talented women at the staff and Board levels throughout the years. It's certainly been a diverse group of experts and we want to take the opportunity to applaud their work and their dedicated to...dedication to safety change. As a small agency, we truly rely on our diverse and dedicated staff to accomplish [inaudible].

Before we go to public comment, I would like to invite my fellow members to make any comments you might have.

MEMBER EHRLICH: I have none, thank you.

MEMBER ENGLER: I have just one comment and that's on the follow-up to your comments on the reporting rule that you just reported on. I think it would be valuable for the CSB to hold some type of stakeholder process...I should be more specific...stakeholders meeting, as part of this. And I defer to our Acting General Counsel for the design of the ways to meet the requirements of the Administrative Procedures Act.

But if I look back to my past work, I've certainly noticed model activities where federal agencies have done a wonderful job of reaching out to the public and interested parties and getting their viewpoints. And other times where it was not so much.

So, in this case, I think it would be valuable if we could do some type of activity and I defer the further discussion about what that would be to get on the record the concerns of diverse outside stakeholders who have particularly useful...these others who have experience with reporting...with reporting systems.

Now, while I think that preeminent in this discussion would be the needs of the CSB as it relates to the deployment for investigations and understanding chemical incident transfer [inaudible] as opposed to necessarily creating a very large database of all chemical incidents. I do think how to do that, what information to capture, will be still somewhat of a challenging

discussion and I would welcome agency attempts to...to take it to...to do some kind of stakeholder process beyond what I anticipate would be necessary which would be putting out a proposed notice, getting written comments. I think we can probably do something that's manageable and, in addition to that, get some valuable insights earlier in this endeavor. Thank you.

MEMBER KULINOWSKI: At this time, I would like to open the floor for public comment. Please present your comments within three minutes. We will begin with the list of people who signed up to speak earlier today. And for those listening on the phone, you can email your comments to [meeting@csb.gov](mailto:meeting@csb.gov) or you can try to use this new interface, the question feature, on the webinar interface. Again, you should click the "raise hand" icon to indicate that you want to make a comment.

Is there anyone in the room...? We have nobody signed up. Is there anyone in the room who wishes to make a comment? No? Okay, let's go to the webinar.

[UNIDENTIFIED]: I have one on the line. Brian Lamb, I'm going to unmute your line now. You may ask your question or make your comment. Mr. Lamb, can you hear me? Your line is unmuted.

BRIAN LAMB: I don't have a comment.

[UNIDENTIFIED]: Oh, okay. Your little hand...the hand did show that you had a comment raised, so I'll re-mute you.

BRIAN LAMB: Oh, I apologize. I don't know how I did that.

[UNIDENTIFIED]: Okay. Okay, a lot of people submitted their questions written. So I'm going to read them. I have a comment from Michael Cohen. "In the list of causes of incidents that you describe, you did not include terrorism. Are terrorism-caused incidents covered under CSB jurisdiction? If so, how does and what does the CSB do to put [inaudible] requires to be done?"

MEMBER KULINOWSKI: The CSB does not investigate intentional acts, only acts...unintentional acts.

[UNIDENTIFIED]: I have another question from Maxine Cattrell[?] of "Are there slides?" Yes, there are slides. I will upload them into the handouts interface momentarily and then you can have all the slides and you should be able to access them afterwards by using the link.

Next question, from Richard Rosera. "Has the CSB hired any new investigators? If not, why not and where does this process stand?"

MEMBER KULINOWSKI: The CSB is executing its Human Capital Plan. We had a job posting out last summer that we are just wrapping up. We anticipate having some news to announce from that

very soon. In addition, we have...after closing that posting out, we are now issuing a new one and hope that it will generate similar kind of interest to what we had from the last [inaudible].

[UNIDENTIFIED]: I have another question from Mr. Rosera. "Is there any statement or reaction by the Board concerning the 2020 budget proposal by the administration?"

MEMBER KULINOWSKI: We covered that during...during the formal remarks.

[UNIDENTIFIED]: I have another one by Maxine Cattrell[?]. "Are there particular members of Congress that we should be appealing to concerning getting onboard with continued funding of the CSB?"

MEMBER KULINOWSKI: It's not appropriate for me to comment on that.

[UNIDENTIFIED]: Right. We appreciate your continued support of the agency. If you want to send us a...some sort of note stating that you support our mission, etc., that...that would be...that's always great to hear. That's all I have for questions. I'm going to do one more quick review and see if anyone has their electronic hand up. I think David Miller has his hand up. So, David, I'm going to unmute you. If I'm mistaken, then I apologize. But I'm going to unmute your line now. David, can you hear?

DAVID MILLER: Wonderful. Thank you. Can you hear me?

[UNIDENTIFIED]: Yes, we can hear you well.

DAVID MILLER: Great. Well, this the system's working because I found the little icon, I raised my hand, and...and now I'm being tied into it. So that's perfect.

So, first off, I'd...I'd like to...to thank the Board and certainly the recommendations staff for the work that went into the Spotlight. Anytime we can highlight the important work that...that standards-developing organizations do and...and the collaboration we have with your...with the CSB, that's important. My question was I've gone to your website to try to find that. When will that document be posted?

[UNIDENTIFIED]: It's going to be posted as soon as I sign off this because I'm sharing my computer and [multiple voices]. So I will post it momentarily, okay? Sorry for the delay.

DAVID MILLER: No problem. I'd love to...I'd love to share it, both internally and with some of our...you know, obviously, folks in the industry. And I just didn't know where to find it. I thought that might be the case.

[UNIDENTIFIED]: Thank you.

DAVID MILLER: Okay, thank you.



[UNIDENTIFIED]: David, I think you're still... I don't...I'm not sure if you're muted. So let me go through a couple questions and...before I try to search for you, so I don't hold up anything. We have a question from Steven Barrow[?] about how we can have a speaker come from the CSB. You can email [public@csb.gov](mailto:public@csb.gov) and we are happy to handle that. And that...those are all the questions I see on my end. So I think we... Wait, let me see... No, that's it.

MEMBER KULINOWSKI: Anybody else in the room have anything to comment? Okay, thank you to everyone who's provided comment or asked a question. And I want to thank everyone today for coming and staff for helping prepare for this, as well as my fellow Board Members. Appreciate everyone's questions and look forward to our next public meeting.

Please check [www.csb.gov](http://www.csb.gov), the Federal Register, or sign up for email alerts for additional details about [inaudible] for the next business meeting. You can follow us on Twitter and Facebook as well. All of us share a strong interest in preventing chemical incidents in the future. Thank you for your attendance.

With that, this meeting is adjourned.