

**Occupational Safety and Health Advisory Council
Minutes
Feb. 5, 2010**

Members present

Erick Ajax
Carol Bufton
Mike Hawthorne
Greg Rindal
Kathy Smith
Dean Tharp
Daryl Tindle

Members excused

Harvey Burski
Fay Chawla
Mike Mueller
Bill Stuart

Members absent

Melanie Allen

Staff members present

Dave Ferkul
Julie Klejewski
Jim Krueger
Hon Siow
Steve Sviggum
Patricia Todd
Cindy Valentine

Visitors present

Mark Hysell, Federal OSHA
Ruth Rasmussen, Midwest Center OHS
Gary Thaden, NECA/MMCA/MnSEIA

The meeting was called to order at 10:05a.m., by chairperson Carol Bufton. Members and staff introduced themselves.

Rindal made a motion to accept the August 7, 2009 minutes as printed; seconded by Smith, all voted in favor and the motion passed.

I. Assistant commissioner's update – Patricia Todd

Assistant Commissioner Todd announced that Consultation Director, James Collins will be retiring and March 3rd will be his last day. Both Hon Siow and Dave Ferkul who are present today will be supervising the Consultation unit and reporting directly to Todd.

Legislatively Todd reported that at this time there were some bills going through from the department related specifically to the CCLD unit's licensing fee restructuring, legislation related to elevators and also a clean-up bill in regards to their combined language from 2-3 years ago.

There was discussion regarding the MNOSHA safety inspectors inspecting both general industry and construction; there is no longer a separate construction unit in the Metro area. Hawthorne brought forth the concern that the inspectors may not be properly trained to do construction inspections and feels that is jeopardizing the safety of the construction workers. Todd stated the department will definitely consider his thoughts and recommendations and will come back with a planned response at the next meeting.

II. Federal OSHA update – Mark Hysell

OSHA Up-Date & Enforcement News:

1. David Michaels, PhD, MPH is OSHA's new Assistant Secretary of Labor

- On December 9, 2009, Dr. Michaels was confirmed as the new head of OSHA
- Michaels is an epidemiologist and a nationally recognized leader in the scientific community's efforts to protect the integrity of the science on which public health and environmental policies and regulation are based
- Before coming to OSHA he was Professor of Environmental and Occupational Health at the George Washington University School of Public Health and Health Services
- From 1998 to 2001, Dr. Michaels served as Assistant Secretary of Energy for Environment, Safety and Health
- As Assistant Secretary of Energy, he was the chief architect of the Energy Employees Occupational Illness Compensation Program, the historic initiative to compensate nuclear weapons workers who contracted occupational illnesses as a result of exposure to radiation, beryllium and other hazards
- The program has provided more than \$5 billion in payments to sick workers and the families of deceased workers

2. US Department of Labor's OSHA issues record-breaking fines to BP

- On October 30, 2009, OSHA issued \$87,430,000 in proposed penalties to BP Products North America Inc. for the company's failure to correct potential hazards faced by employees. The fine is the largest in OSHA's history
- The inspection was a monitoring inspection at BP's Texas City, Texas, refinery where a massive explosion — with 15 deaths and 170 people injured – occurred in March of 2005
- BP entered into a settlement agreement with OSHA in September of that year, under which the company agreed to corrective actions to eliminate potential hazards similar to those that caused the 2005 tragedy
- The citations are the result of a six-month inspection by OSHA, designed to evaluate the extent to which BP has complied with its obligations under the 2005 agreement and OSHA standards

3. US Labor Department's OSHA issues report on Nevada's state occupational safety and health program and announced a *Federal OSHA review all state plan programs*

- On October 20, 2009, OSHA released a report on Nevada's occupational safety and health program that reveals a number of serious concerns with the program's operation, including failure to issue appropriate willful and repeat citations, poorly trained inspectors and lack of follow-up to determine whether hazards were abated
- Twenty-five workplace deaths occurred in Nevada from January 2008 through June 2009. Those deaths, in addition to extensive media coverage revealing Nevada OSHA's poor handling of the fatality investigations and several serious complaints filed with federal OSHA about Nevada's state plan administration, compelled OSHA's investigation
- OSHA identified a number of issues that caused concern: Identified hazards were not cited, families of deceased workers were not notified of fatality investigations nor were the family members provided opportunities to speak to investigators and Nevada OSHA investigators demonstrated limited knowledge of construction safety hazards
- OSHA's Nevada report raised concerns about OSHA's monitoring of all state plan states and as a result of those concerns federal OSHA is presently conducting a special study of all state plans. The special studies are focusing on the state's Federal Fiscal Year 2009 activity performance

- Results of the special studies will be incorporated into the FFY 2009 Federal Annual Monitoring and Evaluation (FAME) Report
- The Eau Claire Area Office opened the special study with MNOSHA on site on January 11th. The last member of the four member team departed DLI on Friday January 22nd
- The final 2009 FAME report is due at the National Office on April 30, 2010

Buften welcomed the Commissioner Sviggum to the meeting. He referenced the safety report and is happy to report there were 5,000 less injuries than the year before. We are going in the right direction in both MNOSHA programs. Federal OSHA recently spent a week at DLI auditing the MNOSHA program which the results were very positive.

III. Staff reports: Compliance – James Krueger

Inspections

- First Quarter, FFY 2010
 - Investigated 5 fatalities and 6 serious injuries under MNOSHA jurisdiction
 - Conducted 649 inspections
 - Handled 160 complaints, of which 66 resulted in inspections

Construction Breakfast seminars

- May 19, 2009: 57 participants attended Post Serious Accident or Fatality Procedures
- September 15, 2009: 80 participants attended Health Hazards in the Construction Industry
- November 17, 2009: 49 participants attended MNOSHA Workplace Safety Consultation
- January 19, 2010: 45 participants attended Construction Safety Training, which was a panel discussion.
- March 16, 2010: Excavation Fatalities, A Case Study
- May 18, 2010: Fall Protection, What's New (Equipment, Best Practice) - Rescue Plans

Outreach

- During first quarter CY 2010, the MNOSHA Compliance Division gave a total of 20 presentations to 690 attendees.
- The Associated General Contractors of Minnesota Safety and Leadership Days will be held February 9 in Duluth and February 23 in Minneapolis. MNOSHA Compliance will be exhibiting at both.
- The 76th Minnesota Safety and Health Conference will be held on May 12-14, 2010 in Minneapolis. MNOSHA Compliance will be exhibiting there as well.
- Continued assisting MNOSHA Workplace Safety Consultation with their Combustible Dust Seminars.
- Responded to 992 phone calls and 366 written requests (primarily e-mails) related to safety and health issues

Publications

- The winter issue of *Safety Lines* was posted in January.
- A fact sheet on the hierarchy of controls for pandemic influenza was created and added to the department's pandemic influenza Web page.
- A window washing hazard alert was issued in December.
- The emergency eyewash and shower booklet underwent a major revision, while the two-page office information sheet underwent a minor revision.

Employee training

- During 4th Quarter CY 2009, four investigators attend OTI, three attended courses at the Minnesota Safety Council and two completed a class at the Midwest Center for Occupational Health and Safety. One staff member attended initial asbestos training, while three went to refresher training. Both Managers participated in the State Managers Conference.
- Nine staff members participated in two OTI Webinars. The new completed five OTI online courses.
- Compliance staff members attended a total of 218 training sessions during CY 2009

- We currently have 69 total reserved spots at OTI for FFY 2010, with another 17 enrolled in OTI Webinars and online training. We also have 28 people to register or have been registered for classes at other venues.
- OTI conducted the OSHA 3008 Principles of Scaffolding course for our staff on September 22-24 at the Carpenters and Joiners Training Center in St. Paul. A total of 31 students, including 24 from MNOSHA Compliance and 7 from Consultation participated in the class.
- We have received word that OTI will be bringing the OSHA 3010 *Excavation, Trenching and Soil Mechanics* class to Minnesota in June.

Open positions

- One Metro Safety, interviews have been completed
- In addition we have been awarded an additional \$223,000 from Federal OSHA.

Significant legislation/rulemaking

- **Safe Patient Handling:** in definitions section of the current statute 182.6552, clinical settings is being added.
 - New 182.6554 = physician, dental and other outpatient care facilities that move patients will have until July 1, 2010 to develop a written SPH plan to achieve by Jan. 1, 2012 the goal of minimizing manual lifting of patients by workers, by using SPH equipment.

Current MNOSHA Rulemaking Proposal:

- Revising Standards Referenced in the Acetylene Standard; Direct Final rule; request for comment. Revising Standards Referenced in the Acetylene Standard; Final rule; confirmation of effective date.
 - Adopted by Federal OSHA November 9, 2009
 - Adoption by MNOSHA pending; comment period closes February 10, 2010.
- Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment; Final rule.
 - Adopted by Federal OSHA October 9, 2009
 - Adoption by MNOSHA pending; comment period closes February 10, 2010.
- Minnesota Rules, 5205.0065, Suspension Scaffolds; technical change.
 - Adoption by MNOSHA pending; comment period closes February 10, 2010.

OSHSPA

- Commissioner Steve Sviggum and James Krueger will be attended the OSHSPA and Assistant Attorney General, Jack Evans will attend the SOLO Winter Conference in Baltimore Maryland on February 22-24, 2010
- Oregon OSHA has completed the 2009 edition of *Grassroots Worker Protection*, i.e., the annual OSHSPA report, and it is online at www.oroasha.org.

MNOSHA changes

- On Oct. 14, 2009, MNOSHA utilized the plan to develop a strategy to maintain consistency and quality throughout the organization's field staff. Two goals were identified:
 - To assure that MNOSHA has an adequate workforce to ensure that general industry and construction worksites are complying with MNOSHA safety and health regulations; and
 - To assure that MNOSHA continues to be an organization that is recognized as a "best-in-class" state plan state.

MNOSHA has been able to consistently recruit talented staff, additionally; stakeholders have come to expect the MNOSHA program to be a highly-functioning organization with strong leadership and experience.

The restructuring plan included dividing field investigative field into 4 groups with similar numbers and disciplines of staff in all 4 groups.

- The four new groups are called North, Central, Southeast and Southwest.
 - All groups have a portion of the metro area. The division of counties has been determined by the number of inspections conducted historically.
 - Each group has 3 industrial hygienists and nine safety investigators who will conduct both construction and general industry inspections.
- Additionally, a fifth group has been developed consisting of team leads that include Safety Investigator 4s, and Industrial Hygienist 3s. This group conducts informal conferences, mentoring, and case file review.

Process Change – to reduce the number of files with late abatement reports, OSHIs will now be sent a reminder approx. one week prior to item deadlines, and they are asked to contact the employer for a Progress Report.

Staff reports: Consultation – K. Hon Siow

1. Special projects

- **Consolidation of staff development plan**
The two OSHA programs have worked cooperatively to research, design and implement a program that meets the professional training and educational needs of both groups. Plan is complete with an implementation date of January 2010
- **Consultation IRIS computer project**
MNOSHA Workplace Safety Consultation has embarked on the redevelopment of its antiquated computer system. The project is on an accelerated track to be completed by April 2010. Team leadership includes the two supervisors Hon Siow and Dave Ferkul.
- **LogSafe program CD**
The Department of Labor and Industry in cooperation with MNSCU has created a 6 hour LogSafe Training program to assist logging employers. Copies of the CD will be delivered to the agency in two weeks for distribution to Minnesota Logging Employers.
- **Nursing home research project**
Research and Policy Development is in the process of completing WSC’s four-year nursing home study. Preliminary data will be available in early March 2010. The study will show consultation effectiveness in reducing injury and illness rates and also show a substantial reduction in workers’ compensation costs through effectiveness disability management.
- **New phone system**
MNOSHA Workplace Safety Consultation has purchased a new distribution call center to enable Consultation to better provide technical assistance, as well as, to assist us in tracking and generating reports for management and staff. The new system will be installed in early March 2010, after the installation of the Enforcement system.

2. Human resource management

- Dave Ferkul, MIS, CSP, CIH (20 years experience) working out of class as Supervisor of Special Programs, MNSTAR, Safety Grants, Ergonomics, Logging and Public Sector Programs
- One Safety Grant Vacancy to be filled.

3. Program productivity quality update

	<i>Quarterly goals</i>	<i>Actual</i>
Initial Visits and Follow-ups	213	304
Training and Interventions	63	104
MNSTAR (4 annually)	1	15
MNSHARP (4 annually)	4	4
PreSHARP (4 annually)	4	4
Hazards (4000 annually)	1000	1163

The preliminary nursing home report will be available electronically in March. Bufton asked if the report could be distributed to council members prior to the May meeting.

Ferkul added that Consultation is also currently working with 3 MNSTAR sites and there are a number of others that will have recertification this year. The Regional Voluntary Protection Programs Participants' Association (VPPPA) will be holding their regional conference for the first time in Minnesota on June 1-3, 2010 - 2 days of conference and 1 day of application workshop. It is open to the public.

IV. Business – Carol Bufton

- Discussion Topic G – Recommendations for new advisory council member orientation package.

Bufton opened the floor for comments or additions to the packet sent to members last week. This was created by Alden Hoffman of the Compliance unit. Below is a summary of comments:

1. Packet is very valuable - excellent information to give a new council member.
2. Suggested giving a hard-copy of the reports to begin with, and then make aware they are available online for future.
3. How can members go out in the field with Consultation staff for visits?

Krueger stated from a Compliance standpoint there are a lot of logistics that need to be looked at, examples being would the employer accept it, scheduling, etc. Hawthorne suggested that if you contact the contractors and ask if the council members could attend a walk-through when they have their scheduled special dates, they should be more than willing. Visitors would need the proper safety apparel; boots, vest, etc.

Todd suggested staff will go back and do some work to find out exactly what the requirements are on both sides, and would probably work better first looking on the Consultation side, then go back and look at the Compliance side. Members agreed.

- Presentation – MNOSHA five-year plan (FFY 2009-2013)

Krueger & Siow gave a presentation on the MNOSHA 5-year Strategic Management Plan which does include both Compliance and Consultation. Their mission it to make sure every worker in the State of Minnesota has a safe and healthful workplace; and their vision it to be a leader in occupational safety and health and make Minnesota's workplaces the safest in the nation. This presentation is available online at: www.dli.mn.gov/Oshac.asp.

Ajax reported that the Commissioner was recently out to his plant for a visit. His company has been MNSHARP certified for almost a decade. Ajax complimented MNOSHA for its level of professionalism and how much it has helped his organization, especially the Consultation unit.

Rindal recognized Ajax for his company coming up on 20 years without a loss time injury!

- Arthur E. McCauley, Jr., award – applications due March 30

Bufton reminded members that this award was created some years ago by this council. She encouraged members to promote this award which recognizes an outstanding safety or health professional. More information as well as the nomination form is available online at: www.dli.mn.gov/OSHA/McCauleyAward.asp.

V. Future agenda items

- Workplace safety report/presentation

Buften encouraged members to review the online reports and newsletter as listed on the agenda. She also reminded members to block their calendars with the future meeting dates: May 7, Aug. 6 and Nov. 5.

Motion by Tharp to adjourn the meeting; seconded by Hawthorne. All voted in favor and the meeting adjourned at 11:22 a.m.

Respectfully submitted,

Julie A. Klejewski

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