

**OSH Advisory Council
meeting minutes
May 6, 2011**

Members present

Carol Bufton
Daryl Tindle
Dean Tharp
Erick Ajax
Fay Chawla
Greg Rindal
Melanie Allen
Michael Hawthorne
Michael Mueller

Members absent

Kathleen Smith

Staff members present

Ken Peterson, Commissioner
Gary Hall, Assistant Commissioner
Alden Hoffman
Dave Ferkul
James Krueger
John Rajkowski
Pam McLaughlin

Visitors present

Mark Hysell, Federal OSHA
Mark Knezovich, Federal OSHA
Matt Marquis
Ruth Rasmussen
Christopher Schmitt
Gary Thaden

The meeting was called to order at 10:05 a.m. by Chairperson Carol Bufton and announcements were made. Members, staff members and visitors introduced themselves.

Michael Mueller made a motion to approve the meeting agenda as presented and the Nov. 5, 2010 draft minutes. This was seconded by Fay Chawla; all voted in favor and the motion passed.

I. Department introductions

Commissioner Peterson thanked members for their work in making safety important in Minnesota workplaces.

Assistant Commissioner Gary Hall welcomed members and gave an overview of his history with the department.

Commissioner Peterson spoke of the recent recognition of the Workers' Memorial Day celebration honoring those who lost their lives in the workplace. It was mentioned the MNSTAR Program and MNSHARP are successful and Minnesota fatalities and serious injuries have gone down because of both OSHA and the technology today. He stated the MNOSHA Compliance and MNOSHA Workplace Safety Consultation units do a good job in our state and that he looks forward to the council's wisdom to enhance the OSHA program. Chairperson Carol Bufton stated the council is eager to work with the department.

Chairperson Carol Bufton made acknowledgement to Erick Ajax, asking him to advise the board about the honors recently received. Erick Ajax advised the board that E.J. Ajax has been recognized as the Minnesota Manufacturer of the Year. He stated they have had the opportunity to share their safety culture and best practices with more than 100 organizations throughout the state.

II. Federal OSHA update – Mark Hysell

Mark Hysell introduced Mark Knezovich, a new member of the federal OSHA program. He explained the role federal OSHA plays with Minnesota OSHA and with the council. He gave the following update.

1. On May 2, 2011, OSHA issued a final rule to protect shipyard workers

- The rule updates existing requirements to reflect advances in industry practices and technology, and provides new protections from hazards that previously were not addressed, including the control of hazardous energy. It is expected to prevent about 350 serious injuries each year.
- Fourteen workplace safety and health categories are being addressed in this final rule, which updates and clarifies provisions in the shipyard employment standards that had largely gone unchanged since OSHA adopted them in 1972. Updates include establishing minimum lighting for certain worksites, accounting for employees at the end of job tasks or work shifts when working alone and adding uniform criteria to ensure shipyards have an adequate number of appropriately trained first-aid providers.
- In addition, OSHA added new provisions for the control of hazardous energy and motor-vehicle safety. Until this final rule, the maritime industry did not have a specific standard to address the control of hazardous energy. Also, according to data from the Department of Labor's Bureau of Labor Statistics' Census of Fatal Occupational Injuries, transportation incidents account for nearly 20 percent of all shipyard fatalities.

2. On May 13, 2011, OSHA will have an expert forum to identify regulatory options for protecting workers from combustible-dust hazards

- Since 1980, nearly 150 workers have been killed and more than 850 injured in combustible-dust explosions. To explore methods for preventing combustible-dust explosions, OSHA invited outside experts to participate in a Combustible-dust Expert Forum. OSHA will gather experts' views on possible regulatory options for addressing combustible-dust hazards.
- Discussions will include identifying regulatory options that can minimize the costs of reducing or preventing combustible-dust hazards to small- and medium-sized businesses.
- A summary of the forum will be available soon after the meeting on OSHA's combustible-dust Web page.

3. As of April, 2011, OSHA launched the national outreach campaign to protect workers from heat-related illnesses

- OSHA developed heat-illness educational materials in English and Spanish, as well as a curriculum to be used for workplace training. Additionally, a new Web page provides information and resources about heat illness – including how to prevent it and what to do in case of an emergency – for workers and employers.
- OSHA has worked closely with the California Occupational Safety and Health Administration to adapt materials from that state's successful outreach campaign about heat illness for use in this national effort.
- OSHA will leverage relationships with other state and local partners, employers, trade organizations, unions, community groups, educational institutions and health care professionals to disseminate training materials, and educate workers and employers about the hazards of working in the heat and how to prevent heat-related illnesses.

4. *OSHA revisions strengthen the 10- and 30-hour Outreach Training Program*

- OSHA has revised its voluntary Outreach Training Program requirements and procedures to improve the quality of outreach classes and ensure the integrity of its authorized trainers.
- The new requirements include a trainer code of conduct and a statement of compliance that requires each trainer to verify the training they conduct will be in accordance with the Outreach Training Program requirements and procedures.
- OSHA is limiting classroom size to a maximum of 40 students, limiting the use of translators to those with safety and health experience, and limiting the amount of time spent on videos during the training. Also, OSHA has imposed limits on outreach training conducted outside of the agency's jurisdiction and is allowing military members returning from overseas an additional 90 days from their return date to renew their trainer authorization.
- The new revisions require trainers to issue OSHA course completion cards directly to the students within 90 days of class completion. OSHA has also added record requirements, imposed tougher advertising restrictions and revised the rules for using guest trainers.
- The content of the training classes has also been changed. All construction classes are required to include four hours about “focus four hazards.” All 30-hour classes must include two hours about managing safety and health. The new requirements and procedures also integrate recent requirements that require training classes to last a maximum of seven-and-a-half hours a day and include a new two-hour “Introduction to OSHA” training module.

5. *OSHA fall protection directive upheld in U.S. Court of Appeals*

- In April 2011, the U.S. Court of Appeals for the Seventh Circuit rejected a challenge by the National Roofing Contractors Association to the Occupational Safety and Health Administration's December 2010 directive about the use of fall protection in residential construction. The directive withdrew an earlier one that allowed certain residential construction employers to bypass some fall-protection requirements.
- OSHA's new directive rescinded the Interim Fall Protection Compliance Guidelines for Residential Construction, Standard 03-00-001; STD 3.1A allowed employers engaged in certain residential construction activities to use specified alternative methods of fall protection rather than the conventional fall protection. With the issuance of the new directive, all residential construction employers must comply with 29 Code of Federal Regulations 1926.501(b) (13).
- Construction and roofing companies have until June 16 to comply with the new directive. OSHA has developed training and compliance assistance materials for small employers and will host a webinar for parties interested in learning more about complying with the standard.

6. *OSHA timeline highlights 40 years of healthier workers, safer workplaces and a stronger America*

- An interactive timeline commemorating 40 years of progress protecting the safety and health of working men and women illustrates milestones from the Occupational Safety and Health Administration and its state partners' efforts to reduce injuries, illnesses and deaths.
- In the four decades since OSHA was created, the nation has made dramatic progress in reducing work related deaths and injuries.

7. *On Feb. 15, 2011, OSHA issued enforcement guidance about personal protective equipment to protect general industry worker's safety, health*

- The new directive provides enforcement personnel with instructions for determining whether employers have complied with OSHA personal protective equipment (PPE) standards.

- OSHA issued a final rule on Employer Payment for Personal Protective Equipment in November 2007. The rule required employers in general industry, shipyard employment, long shoring, marine terminals and construction to provide most types of required PPE at no cost to the worker.
- Changes in this directive include clarifying what type of PPE employers must provide at no cost to workers and when employers are required and not required to pay for PPE.

8. *In February 2011, OSHA produced a respiratory protection video discussing proper respirator use for health care workers*

- The training video is for health care employers and workers and explains the proper use of respirators and the procedures to follow to assure the protection of workers from airborne hazards in health care settings.
- The 33-minute video explains the major components of a respiratory protection program including fit-testing, medical evaluations, training and maintenance. The video also discusses the difference between respirators and surgical masks, and features a segment about common respiratory hazards found in health care settings, including airborne infectious agents that cause diseases.
- Demonstrations also show how respirator use helps protect workers from exposure to airborne chemical hazards.

Closer to home

1. *On April 8, 2011, Region V issued citations to a wind farm servicing company for six willful safety violations after worker suffers burns in wind tower. Egregious safety violations result in proposed fines of \$378,000.*

- The company was issued the citations for exposing maintenance technicians to electrical hazards from the unexpected energization of transformers in three wind turbine towers.
- On the day of the incident, the employer failed to ensure technicians working in wind farm towers affixed their own personal lock and tag devices – on the tower turbine switch gear at ground level. That created the possibility for other workers to energize transformers in the turbine towers. The injured worker suffered third-degree burns to his neck, chest and arms, and second-degree burns to his face as a result of an arc flash that occurred when a transformer was unexpectedly energized by another worker.

2. *In April, the Eau Claire Area Office completed the FAME and RACER reports summarizing MNOSHA’s FY 2010 performance in relation to their established goals.*

III. Staff reports: Compliance – James Krueger

Inspections

- Second quarter, FFY 2011
 - Investigated four fatalities and three serious injuries that occurred under MNOSHA jurisdiction
 - Conducted 653 inspections; total inspections for FFY 2011, to-date, is 1,192 inspections
 - Handled 163 complaints, resulting in 93 inspections

Construction seminar (formerly the Construction Breakfast seminars)

- March 15, 2011: topic was distracted-driving hazards
- May 17, 2011: topic is safety by design
- Food service has been discontinued and there is no longer a charge to attend

Outreach

- During the second quarter of calendar-year (CY) 2011, the MNOSHA Compliance unit gave a total of 40 presentations to 1,622 attendees.
- During the same quarter, the Compliance responded to 1,369 phone calls and 479 written requests (primarily email messages) related to safety and health issues.

Publications

- The January and April editions of *Safety Lines* were posted online.
- Michigan will be publishing the next OSHSPA *GRASSROOTS* report. The 2010 edition is online at www.osha.gov/dcsp/osp/oshspa/annualreport.html.

Training

- Compliance staff members attended a total of 21 training sessions during the first quarter of CY 2011, including electrical and ergonomics. Eighteen of these were webinars conducted by the federal OSHA Training Institute (OTI).
- During FFY 2011 YTD, Compliance staff members completed 52 training courses, including webinars and online training. The majority of these were conducted by OTI.
- Compliance currently has 49 total reserved spots at OTI for FFY 2011, with another 16 enrolled in federal OSHA webinars. Compliance also has 19 people to register or who have been registered for classes at other venues.

In-house staff training

- Two industrial hygienists and four safety investigators were hired during the quarter. They have completed both Phase I and Phase II training.
- On March 15, all safety investigators attended a four-and-a-half hour class about the new construction crane standard.
- During monthly staff meetings, Compliance completed its annual employee right-to-know, electrical hazards and excavation training.
- Compliance and Workplace Safety Consultation are currently doing joint training for staff members. This involves MNOSHA's Phase IV training that uses both enforcement and consultation staff members.

Significant legislation/rulemaking/compliance guidance

Safe Patient Handling (SPH): Jan. 1, 2012 effective date still pending

Minnesota Statutes 182.6554 – physician, dental and other outpatient care facilities that move patients had 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.

Reminder: Effective Jan. 1, 2011, all provisions of Minnesota Statutes 182.6553 became enforceable in health care facilities (hospitals, nursing homes and outpatient surgical centers).

Adopted rules

Federal adoption-by-reference

- Federal OSHA's final rule about cranes and derricks was effective at the federal level Nov. 8, 2010. *MNOSHA adopted the final rule Feb. 7, 2011, and the rule became effective in Minnesota on that date.* MNOSHA will keep its current crane operator statute (Minnesota Statutes 182.6525) until 2014, when the federal standard's requirements become effective.

Minnesota Rules amendment

- Statutorily required biennial update to Minnesota Rules 5208.1500, Standard Industrial Classification List for AWAIR:

- adopted by MNOSHA Nov. 29, 2010. Newly added employers have until May 29, 2011, to comply. See MNOSHA's AWAIR Web page for further information at www.dli.mn.gov/OSHA/Awair.asp.

New federal compliance directive will be honored in Minnesota

- *Residential Construction [1926.501(b) (13)]*
On Dec. 22, 2010, OSHA issued STD 03-11-002, Compliance Guidance in Residential Construction. This directive rescinded STD 03-00-001, Interim Fall Protection Compliance Guidelines for Residential Construction, which allowed employers to use alternative methods for fall protection without demonstrating the infeasibility of conventional fall protection – guardrails, safety nets or personal fall-arrest systems. The change in policy takes effect June 16, 2011. On that date, residential construction employers must comply with 29 CFR 1926.501(b) (13).

Emphasis programs

- *Excavations:* Investigators continue to stop at these; we have averaged 99 inspections in the past three years. In the most recent quarter we have had six presentations with 190 attendees.
- *Window washing:* We trained 12 investigators to do inspections where window washing is taking place. In the past we have found employees being used as anchors and employees walking on parapet ledges. We have conducted three inspections since April.

Audit results

- On Dec. 6 through 10, 2010, Region V auditor Marc Choi conducted a financial audit. No significant issues or unlawful transactions occurred during the FFY 2010 review period.
- On Feb. 8 and 9, 2011, the Eau Claire office conducted the FFY 2010 on-site review. They identified cases where abatement documentation was not adequate for willful or repeat citations and hazards identified as corrected during inspection.

OSHSPA/family meeting

- James Krueger will be attended the OSHSPA meeting in Sandy, Utah, June 20 through 22. Key issues: consistent monitoring system, NEPs and penalties.

IV. Staff reports: Workplace Safety Consultation – Dave Ferkul

On behalf of Patricia Todd, Dave Ferkul presented the update for WSC; Patricia Todd is attending the OSHCON conference in Orlando, Fla., this week.

New hires: Ling Jiang and Bill Stuart

Ling is a former MNOSHA Compliance investigator and began working in WSC March 16. Stuart began with WSC May 4 and provides the unit with a broad range of industry experience in EHS.

WSC is continuing the development of internal directives; reviewing/revising/eliminating report and letter templates currently in IRIS (streamlining the number of templates within its IRIS for added efficiency).

WSC statistics: second quarter FFY 2011

- WSC has placed an added emphasis on providing safety and health management assistance through assessment using the Form 33 (safety and health management assessment worksheet).
- In February, the consultant staff attended a mandatory course; Consultation Systems Assessment Training (CSAT).
- 233 initial visits completed

- 39 follow-up visits
- 1,413 hazards identified (1,144 serious)
- 31 training sessions, impacting 89 employers and 591 employees (emphasizing the scheduling of training visits that are related to hazard findings from the initial consultation visit to provide more compliance and safety and health management assistance, as needed)
- 107 interventions (formal training, meetings with professional groups, VPP, more involved technical assistance) that impacted 825 employers and 2,321 employees

MNSTAR Program

- A Minnesota-specific MNSTAR Program (VPP) directive is going through final review. This directive is modeled after the federal OSHA VPP directive; language has been revised to fit MNOSHA program.
- MNSTAR Program handout: An informational hand-out is in final review. It will provide comprehensive information about the program, how it functions, what it strives to accomplish.
- An online MNSTAR Program application is in the process of being created.
- Seven Merit sites (one recently included in April)
- 45 STAR sites
- Average TCIR/DART rate reduction:
 - general industry sites experienced an average TCIR reduction of 45 percent as compared to BLS data and a 58 percent reduction in DART cases; and
 - construction sites experienced an average TCIR and DART rate reduction of 100 percent.
- Injury cost savings: Companies in the MNSTAR Program accomplished a reduction in DART injuries that resulted in an estimated injury cost savings of \$1.5 million, based on DART cases avoided as compared to state of Minnesota averages.
- During the second quarter: one re-certified; three new sites in April
- Three MNSTAR Program applications are currently in the process of review.

MNSHARP

- 43 general industry sites (two in pre-SHARP status)
- Two construction sites

Average TCR/DART rate reduction:

- As an average for the group, general industry sites experienced a TCR reduction of 45 percent as compared to BLS data and a 42 percent reduction in DART cases.
- Construction sites experienced an average TCR reduction of 75 percent as compared to BLS data and a 100 percent reduction in DART cases.

Injury cost savings

- Companies in MNSHARP accomplished a reduction in DART injuries that resulted in an estimated injury cost savings of \$491,220, based on DART cases avoided as compared to state of Minnesota averages.
- During the second quarter: three re-certified and two new sites (two in April)
- Three re-certification evaluations in progress.

Ergonomics

Alliance with the Care Providers of Minnesota: Scheduling of on-site visits that provide an opportunity for hands-on training for facility staff members and those from other invited facilities.

WSC is looking to gain approval to host a meeting with representatives from area hospitals to discuss safe patient-handling. The meeting would encourage discussion of best practices and challenges being

encountered, for the purpose of sharing information and brainstorming ideas. Hospital representatives have already shown interest in the meeting.

Outreach/training/consultation visits – second quarter FFY 2011

Ergonomics training classes about general ergonomics, safe patient-handling and hands-on training (similar to alliance format), SPH equipment application at worksite, working with the Minnesota Dental Association developing sample hazard-assessment and SPH program for clinical settings. This training impacted 20 employers and 83 employees.

Ten initial visits with two additional formal training presentations relating to an initial consultation visit. Attended the national SPH conference.

LogSafe

The 2011 spring training for LogSafe has been completed. Ed LaFavor will be obtaining training records shortly. Hibbing Community College provided the training and is contracted through 2012.

Outreach/training/consultation visits – second quarter FFY 2011

Seventeen formal training sessions: 15 about chain saw safety and maintenance for state and local government entities, professional groups and electric co-ops; and two about logging safety for logging employers. This training has impacted 62 employers and 279 employees. Forty initial consultation visits with one formal training presentation relating to an initial consultation visit.

Safety grants

Awarded second quarter FFY 2011; defined by safety grant contracts signed by the assistant commissioner from Jan. 1 through March 31, 2011. These applications were submitted to the Safety Grant Program between Oct. 15, 2010, and Feb. 16, 2011 (two rounds).

- Number of applications submitted: 90
- Number of safety grants awarded and signed during the second quarter: 35 (two grants awarded in this period were signed in April 2011)
- Number of safety grants awarded to private companies: 26
- Construction: 6
- Manufacturing: 8
- Service with patient handling: 8
- Number of safety grants awarded to public entities: 9

Total project costs: \$729,084

Amount of grant money awarded: \$232,542

Amount of employer funds needed to complete the projects: \$496,541

Other outreach/training during second quarter

- Presentation (EESCO) about the benefits of VPP, and the MNOSHA compliance and consultation programs
- Two presentations about MNOSHA, WSC and most cited standards (public sector)
- Three presentations about violence prevention in health care
- One presentation about violence prevention in public housing
- One presentation about WSC for two insurance groups
- Construction-related training for various associations and contractor employees:
 - two fall protection for residential construction;
 - one introduction to OSHA as part of a 10-hour course conducted with AGC;

- two scaffolding;
- two forklift operation; ← *Part of contractor licensing*
- one fall prevention and electrical safety;
- one new crane standard for an electric association; and
- three hazard identification; safety and health program
- For carpenter’s union:
 - one excavation requirements for carpenter’s union;
 - five “focus four” construction hazards – falls, caught in, struck by and electrocution; and
 - in conjunction with Hennepin Technical College, 18 sessions covering either forklift use or scaffolding (part of a seven-hour contractor re-licensing training)
- One presentation about WSC for a foundry association;
- One presentation about WSC and MNSHARP to employer safety committee
- Multiple presentations about WSC, most-cited standards, health and safety hazards in health care (for health care engineers association, county administration, manufacturer, power company)
- Discussion of OSHA rules, recirculation policy, air contaminants (for medical components manufacturer)
- Other technical assistance

Mike Hawthorne asked if the OSHAC members could be notified when MNSTAR Program/MNSHARP flag-raising ceremonies and awards happen, asking if they would be able to attend these meetings. Dave Ferkul advised WSC sends a news release. Assistant Commissioner Gary Hall stated he’d talk to the commissioner and they can expect to receive notice.

V. New business – Carol Bufton

Employer’s approach to distracted driving

Chairperson Carol Bufton gave a PowerPoint presentation, *Employer’s approach to distracted driving – a workplace safety issue*, and handouts were provided. She referred to a survey from AAA; those interested in obtaining this document should contact Carol for the report.

VI. Reports

- Fatality/serious injury log – available online at www.dli.mn.gov/OSHA/Information.asp
- The newest edition of *Safety Lines* – available online at www.dli.mn.gov/OSHA/PDF/71_0411sl.pdf

VII. Future agenda items

- No future agenda items were mentioned.
- Chairperson Bufton reminded members of remaining meetings for 2011: Aug. 5 and Nov. 4.

A motion to adjourn was made by Dean Tharp and seconded by Erick Ajax. All voted in favor and the meeting adjourned at noon.

Respectfully submitted,

Carey Demaris

Carey Demaris

Administrative Assistant