

**Occupational Safety & Health
Advisory Council Meeting Minutes
November 16, 2018**

Members Present:

Paul Aasen
Xavier Escobedo
Brandon Holmes
Scott Huberty
Dean Gale
Michael Marturano
Scott Parker
Liz Rheingans
Christopher Schmitt
Kurt Zimmerman

Staff:

Ron Anderson
Dave Ferkul
Julie Klejewski
Jim Krueger
Nancy Zentgraf
Ken Peterson

Guests/Speakers:

Carol Keyes, CHES, Inc
Gary Thaden,
MMCA/NEEA

Call to Order

The meeting was called to order at 10:00 a.m. by Chairman, Paul Aasen. Announcements were read. Members introduced themselves.

Approval of the Agenda

Chairman Aasen asked whether any changes or additions were needed, and hearing none, the November 16, 2018 meeting agenda was approved.

Approval of the Minutes

Chairman Aasen asked for a motion to approve the meeting minutes. Scott Parker moved to approve, seconded by Mike Marturano. All voted in favor and the motion carried. Hearing no changes, the May 4, 2018 minutes were approved.

New Member

Dean Gale, Business Agent of the St. Paul Plumber's Union #34, was appointed to the Council, representing Labor was welcomed to the Council.

2019 Meeting Schedule: February 1, May 3, August 2, November 1

Scott Parker moved and Scott Huberty seconded motion to approve. Hearing no changes, the 2019 Meeting Schedule was approved.

Membership Expirations. Six member terms expire January 4, 2019. Those interested in reapplying are to go to the Secretary of State's website to apply online.

Retirement. Mike Marturano announced he is retiring and will not seek reappointment. The members offered congratulations to Mike and thanked him for his service on the Council.

Department Update – Ken Peterson, Commissioner

- Ken will retire January 7, 2019. Governor-elect Walz’s transition teams are in place and discussions on new Commissioners will take place sometime in December.
- Minnesota’s OSHA Program. Ken has always had great respect with the OSHA program. The new Commissioner will decide how to organize the OSHA leadership/contacts. Ken receives positive feedback from national stakeholders on Minnesota’s OSHA program.
- Building Renovation. MNOSHA will be in their final office spaces by February 2019.
- Thank you to all of the members for their help, wisdom, guidance, hard work. A lot of progress has been made in Minnesota in making workplaces safer. In 1990, Minnesota had approximately 42,500 Workers’ Comp injuries that drew indemnity benefits (at least 3 days off work). Since then, we’ve added 6-700,000 to Minnesota’s workforce, but the number of WC injuries within similar industries, dropped by half. Last year, we had somewhere around 21,000 WC injuries. That’s a remarkable record, thanks to those of you in the safety profession, organized labor, and business with focus on job safety. Society is less dangerous to work, as there is a greater appreciation for safety in the workforce.
- Chairman Aasen. Not many people have shown the dedication, wisdom, and desire to serve two different stints in public service at DLI. Commissioner Peterson served a full 8-years during one of his times. Thank you for everything you’ve done, Commissioner Peterson.

New Business

- **Silica and Recordkeeping – Anderson**
 - Changes to the **Respirable Crystalline Silica** rule in General Industry became effective June 23, 2018. In Construction, the standard has been in effect since September 2017. Federal OSHA had specified controls for specific work tasks (Table 1), with 18 tasks with controls specified: dust collection, wet methods, whether a respirator is needed for less than or greater than 4-hours of work. For those who comply with Table 1, there are exemptions from compliance with permissible exposure limit and exposure assessment parts.
 - Questions/Comments: Scott Parker: Some of the International Union of Painters and Allied Trades training staff attended respirable silica regulation training in Chicago. A grant was provided which will allow them to teach a 4-hour class to apprentices and journeymen and women. Scott has seen no pushback on the new requirements.
- **Recordkeeping.** The final rule issued to improve tracking of workplace injuries and illnesses. Electronic submission, 1904.41 (a)(1) establishments with 250 or more employees are required to keep records & submit the OSHA Form 300A (summary of work-related injuries and illnesses). 1904.41 (a)(2) establishments classified in an industry listed in Appendix A, with 20 or more but fewer than 250 employees. In Minnesota, Appendix A contains all NAICS codes; all establishments are required to submit the OSHA 300A (summary of work-related injuries and illnesses) form. The next reporting date is March 2, 2019, with calendar year 2018 data. In July, federal OSHA issued a Notice of Proposed Rulemaking to eliminate the need to submit the 300 Log and 301 Form, also proposing to require the submission of the employer’s identification number with the data submission. That proposed rule has been published, is in a comment phase. Federal OSHA is not able to accept any 300A or 301 data at this time.

- Scott Huberty-Elimination of 301 Form. In a state like Minnesota, the employer could utilize their Workers' Comp First Report of Injury (FROI) form in lieu of also submitting the 301 form. Ron stated that the employer is not to submit the 301 Form and FROI. The standard now, as written, requires it, but it will not be accepted.
- An establishment is designed to be a fixed location with its employees. An employer might have five establishments with 20 or more employees in the state. The OSHA 300 Logs are kept by establishment. Some employees do not work at a central location, they may work from home or elsewhere.
- Scott Parker asked for clarification for when home-based employees are injured while working at home, are they covered under Workers' Comp? Ron stated that it depends upon the specific scenario. If an injury/illness occurs while performing job tasks, then it is recorded with the appropriate establishment, as defined in 1904.46.
- The next reporting date is March 2, 2019. In Minnesota, establishments with 20 or more employees, are required to submit calendar year 2018 301A summary data.

Old Business

- **Building Renovation – Zentgraf**
 - DLI renovation continues. The 2nd floor will be completed November 30. On the 3rd floor, the Commissioner's Office is under renovation, with completion expected around December 21. The Office of General Counsel area will be renovated after that. Work begins again on the 4th floor the first part of December with completion expected February 2019. DLI houses approximately 350 employees, with some working remotely, and others moved to temporary locations within the building.

Staff Reports

- **Federal OSHA Update – Jim Krueger, for Mark Hysell, Area Director Eau Claire Office**
 - **On November 7, 2018, OSHA issues Final Rule on Crane Operator Certification Requirements**
 - The rule clarifies certification requirements for crane operators, and maintains the employer's duty to ensure that crane operators can safely operate the equipment.
 - Under the final rule, employers are required to train operators as needed to perform assigned crane activities, evaluate them, and document successful completion of the evaluations.
 - Employers who have evaluated operators prior to December 9, 2018, will not have to conduct those evaluations again, but will only have to document when those evaluations were completed.
 - The rule requires crane operators to be certified or licensed, and to receive ongoing training as necessary to operate new equipment.
 - Operators can be certified based on the crane's type and capacity, or type only, which ensures that more accredited testing organizations are eligible to meet OSHA's certification program requirements.
 - The final rule, with the exception of the evaluation and documentation requirements, will become effective on December 9, 2018. The evaluation and documentation requirements will become effective on February 7, 2019.
 - **On October 17, 2018, OSHA Launches Program to Target High Injury and Illness Rates**

- OSHA is initiating the Site-Specific Targeting 2016 (SST-16) Program using injury and illness information electronically submitted by employers for calendar year (CY) 2016.
 - The program will target high injury rate establishments in both the manufacturing and non-manufacturing sectors for inspection.
 - Under this program, the agency will perform inspections of employers the agency believes should have provided 300A data, but did not for the CY 2016 injury and illness data collections.
 - For CY 2016, OSHA required employers to electronically submit Form 300A data by December 15, 2017.
 - The CY 2017 deadline was July 1, 2018; however, employers may still provide this information to the database.
 - Going forward, establishments with 250 or more employees that are currently required to keep OSHA injury and illness records, and establishments with 20-249 employees that are classified in specific industries with historically high rates of occupational injuries and illnesses will be required to provide this information each year by March 2.
 - Minnesota is required to notify OSHA by December 15 whether they intend to adopt the new SST program or establish an equivalent inspection program.
- **On October 2, 2018, OSHA Updated the National Emphasis Program on Trenching and Excavation Safety**
 - OSHA's NEP will increase education and enforce efforts while its inspectors will record trenching and excavation inspections in a national reporting system and each area OSHA office will develop outreach programs.
 - The emphasis program began October 1, 2018, with a three-month period of education and prevention outreach. During this period, OSHA will continue to respond to complaints, referrals, hospitalizations, and fatalities.
 - Enforcement activities will begin after the outreach period and remain in effect until canceled.
 - OSHA-approved State Plans, as Minnesota, are expected to have enforcement procedures that are at least as effective as those in this instruction.
- **On August 22, 2018, OSHA Posts Online New Frequently Asked Questions and Videos on OSHA Standard for controlling Silica in Construction**
 - Developed by OSHA in cooperation with industry and labor organizations, the FAQs provide employers and works with guidance on the standard's requirements.
 - The videos cover topics including handheld power saws, jackhammers, drills, and grinders.
 - You can visit OSHA's silica standard for construction page for more information and resources on complying with the standard.
- **On July 3, 2018, OSHA Extended Enforcement Dates of Certain Provisions of the Beryllium Standard to August 9**
 - The requirements include beryllium work areas, regulated work areas, regulated work areas, methods of compliance, personal protective clothing and equipment, hygiene areas and practices, housekeeping, communication of hazards, and recordkeeping.

- On June 1, 2018, OSHA published a Notice of Proposed Rulemaking to further extend the compliance dates of the remaining requirements until December 12, 2018.
- On May 11, 2018, OSHA began enforcing the permissible exposure limits for the construction and maritime industries, as well as other requirements of the general industry standard.
- Enforcement of the general industry requirements for change rooms and showers will begin March 11, 2019, and requirements for engineering controls will begin March 10, 2020.

Closer to Home:

- The FY 2019 MNOSHA enforcement and consultation federal grant application process was completed in August and is now in effect.
 - The MNOSHA FY 2018 performance summaries, the DRAFT SOAR and CAPR are due to the Eau Claire office on November 30 and due to go FINAL December 31.
 - The Biannual onsite audit of the consultation program was completed in September. The final report will be available soon. Special thanks to Tyrone and his staff for their hospitality while we were onsite.
- **Training, Outreach and Partnerships – Zentgraf – FFY18 4th Qtr.**
 - OTI Training – A total of 12 investigators and one consultant attended courses at OTI during the quarter. These courses included:
 - OSHA 2000 Construction Standards (one safety investigator)
 - OSHA 2200 Respiratory Protection (three industrial hygienists from Compliance)
 - OSHA 2540 Machine Guarding and Hazardous Energy Controls (two safety investigators)
 - OSHA 3080 Principles of Scaffolding (two safety investigators)
 - OSHA 3160 Steel Erection (two safety investigators and one consultant)
 - OSHA 3190 Electrical Power Generation, Transmission and Distribution (two safety investigators)
 - Internal Training – The Annual HAZWOPER refresher course was held on September 11, at the MnDOT Office of Aeronautics. Twelve MNOSHA staff members from both Compliance and Consultation attended.
 - Outreach - During the fourth quarter, Minnesota OSHA Compliance gave a total of 16 presentations to a combined audience of 496 participants, for an average audience of 31.
 - The September Construction Seminar focused on respiratory protection. While attendance was only 26 participants, many were new to workplace safety and health and appreciated the information presented. November’s seminar will cover ladders and stairways. The seminar is November 20 at 7:00 a.m.
 - The Minnesota Safety Council held its annual Northern Regional Safety Day in Duluth on September 25. Both MNOSHA Compliance and Consultation exhibited at the event and the Duluth Office supervisor provided a MNOSHA update presentation.
 - Publications – The July issue of our Safety Lines newsletter featured articles on heat stress, the Excavation Safety Stand-Down, MNSTAR/MNSHARP, Safe + Sound Week, partnerships, injury and illness data, a safety equipment recall, and the usual standards update, Frequently Asked Questions column and calendar of events.
 - Partnerships – Currently, there are 14 active partnership sites. MNOSHA Compliance signed five new sites this past quarter. All partnership are with ABC and AGC. One quarterly

partnership meeting was held with the Level 3 contractors. This is a meeting where these contractors share best safety practices with one another.

- Compliance Assistance – During the fourth quarter, MNOSHA handled a total of 1212 phone calls. These broke down to approximately 40% employers, 36% employees, 1% consultants and 23% others or unknown. The division also handled 586 written requests for information, nearly all of which was e-mail.

- **Workplace Safety Consultation Statistics –Dave Ferkul–FFY18 4th Qtr.**

Consultation Visits

160 safety
47 health
16 both safety & health
28 formal training visits
23 follow-up visits
274 total consultation visits for safety & health services
Total visits for FY18: 1035 (including 821 initial consult visits)

Hazards Identified

1265 observed hazards

- 1181 serious
- 68 other-than-serious
- 16 regulatory (i.e. recordkeeping)

FY18 Total: 4409

Total Interventions

82 Interventions

- Formal training, MNSTAR activities, conference participation, and technical assistance
- Impacting 643 establishments represented by over 1800 employees

FY2018 Total: 328

Other 4th Qtr. Highlights:

- In collaboration with the MN Hospital Association –Roadmap for SPH – an ongoing development and updates, with outreach to promote the roadmap is planned.
- Respirable crystalline silica: 2 formal trainings for construction, 1 formal training, 1 program assistance for general industry.
- Conferences:
 - Presentation to 90 safety and sales reps on MNOSHA program, programmed inspections, and frequently cited standards
 - Dept. of Administration annual safety conference – booth and presentation on new walking/working surfaces standard.
 - Northern Regional Safety Day in Duluth booth
 - Annual Welding Expo – outreach to promote WSC

- Conducted 3 presentations on walking/working surfaces for the MN Municipal Utilities and Rural Water Associations, additional presentation on WSC and 2 presentations on WPV prevention.
- Workplace Violence Prevention: 2 additional presentations for municipalities. WPV is a topic that is frequently requested
- Provided training on BBP and exposure control for an employer at each of 4 retirement community establishments.
- Other formal training and technical assistance on topics that included fall protection, confined space entry, AWAIR and HazCom/RTK program development, emergency exits, slips, trips, fall hazards, PPE for chain saw use, and other general WSC program information and services.
- Alliance Programs:
 - Mexican Consulate – continued outreach through monthly TALK presentations at the Consulate.
 - MMUA – completed respirable crystalline silica exposure assessments for street sweeping tasks at 9 municipalities. (One mowing task was also assessed.) Creating a database of exposure assessment results.
 - Minnesota State Colleges & Universities (MnSCU) – ongoing work-site consultations and safety and health program assistance.
 - MN Dental Association – completed development of safety and health training materials for dental clinics. A safety day training seminar is being planned for 2019.

MNSHARP (Minnesota Safety and Health Achievement Recognition Program)

- General Industry: 38 sites and 1 pre-SHARP
- Construction: 3 sites, and 3 pre-SHARP

Current MNSHARP sites:

- 1) John Kramer and Sons-Frederickson project
- 2) A&P-Elk River/Sherburne County Government Center
- 3) Knutson-Mercy Hospital Expansion

MNSTAR (Minnesota's Voluntary Protection Program)

- 35 sites
- 1 will be recommended for the program

Safety Grants (1st Qtr. State Fiscal Year 2019)

- 37 grant applications received and reviewed, with a total of \$248,418 requested
- 30 grants were awarded - \$186,030
- \$916,816 total project costs
- Grant Distribution:
 - 44 private companies: 5 construction, 8 manufacturing, 7 service, 5 logging, 5 healthcare
 - Public Sector entities: 7
- **Compliance – Jim Krueger – FFY18 4th Qtr.**
 - 1801 Inspections Conducted
 - 25 fatality and 63 serious injury inspections that occurred under MNSOHA jurisdiction

- Handled 1,249 complaints, which resulted in 296 inspections. Response time to these complaints was 3.55 days.
- Citation issuance time was 19-days (Safety) and 25-days (Health)
- Emphasis Programs are prioritized:
 - Excavations
 - Fall Protection
 - Machine Guarding/Lockout/Tagout
 - Industrial Hygiene Sampling
- Ongoing training and inspecting in emphasis areas:
 - Excavations
 - Health Care (nursing homes, hospitals)
- Minnesota's Workplace Injury Rate Reaches All-Time Low Level
 - 3.3 per 100 full-time equivalents (FTEs) work in 2017
 - Lowest since measurement started in 1973
 - In the past 15 years, this is a 40% decrease
 - Press Release is available on the Department's web site
- Significant Legislation/Rulemaking
 - Minnesota Rulemaking and Legislation
 - Minnesota has not adopted any legislation relating to penalties. The maximum penalty for a serious injury is \$7,000. In a federal OSHA state, the maximum is above \$12,000. At some point, Minnesota will need to become "equivalent" with federal OSHA. We anticipate working on it the next session.
 - Crane Standard. Minnesota has its own existing crane standard. A comparison will be done to either adopt the federal standard by reference or make a side-by-side, with changes. Minnesota expects to work on this in the next 6 months.
 - Federal Standards:
 - Final Rule to Improve Tracking of Workplace Injuries and Illnesses. MNOSHA completed rulemaking May 21, 2018, adopting this final rule, with the inclusion of public sector employers in Minnesota.
 - Interim Final Rule on Maximum Penalty Increases. Legislative action to change penalties for MNOSHA is pending.
 - Final Rule on Occupational Exposure to Beryllium. MNOSHA completed rulemaking May 21, 2018, adopting the general industry portion of the final rule.
- Federal OSHA
 - Budget level for MNOSHA enforcement remains near FFY2015, FFY2016, FFY2017, FFY2018 and FFY2019 levels. MNOSHA enforcement's inspection numbers are also projected to remain at FFY2015, FFY2016, FFY2017, FFY2018 and FFY2019 levels. In 2015, MNOSHA had 92 positions and currently, we have 72 positions. The inspection goal is 1,800, the same since FFY2015.
 - MN FAME Comprehensive Report. For the first time in the history of MNOSHA, Compliance had no findings. Minnesota is one of the few states to accomplish this.
 - Staffing. We are not filling positions because staff are leaving, rather we are backfilling for those who are retiring. Compliance is in the process of filling a safety investigator position in the Mankato area office. We have two new safety investigators and one health investigator, who are close to conducting their own inspections.
 - OSHSPA / Federal Meeting – is scheduled February 26-27 in Salt Lake City, Utah.

- Questions/Comments. Scott Huberty-In recent weeks, Scott has seen different articles, memos, newsletters making reference to the issue of employer safety incentive programs and drug testing. What is MNOSHA Compliance's response? Jim: The previous administration had ideas on incentive programs, which the current federal administration is not advancing further. Drug testing for states is being clarified. MNOSHA does not focus on either incentive programs or drug testing. Safety and health needs to be a part of the work culture, employees are able to bring injury/illness reporting forward, and that it is being done fairly and equitably. Minnesota statutes are already in place regarding drug testing.
- Paul distributed a hand out a *Workplace Safety Dashboard*, which is a cooperative effort between DLI, Department of Health, and the Minnesota Safety Council. The Dashboard is available on DLI's and the Minnesota Safety Council's websites. The dashboard shows fatality and non-fatality occupational injuries and illnesses, and WC data from 2016. The top 3 fatal workplace injuries are driving-related. Continued issues are in the following industries: farm-related injuries, falls, lung disease, amputations, OSH Professionals.
- The Council is to consider topics, items, or issues for Council discussion and send them to Chairman Aasen.

The meeting adjourned at 11:03 a.m.

2019 Meeting Schedule: February 1, May 3, August 2, November 1

Respectfully submitted,

Pamela McLaughlin
Executive Secretary