

**Occupational Safety and Health Advisory Council  
Minutes  
February 6, 2009**

Members Present:

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

Staff:

James Collins  
Alden Hoffman  
Julie Klejewski  
Jim Krueger  
Patricia Todd  
K. Hon Siow

Members Excused:

Fay Chawla  
Bill Stuart  
Melanie Allen

Visitors:

Mark Hysell, Federal OSHA

The meeting was called to order at 10:07 a.m., by chairperson Carol Bufton. Members and staff introduced themselves.

There were no changes or additions to the agenda.

Hawthorne made a motion to accept the November 7, 2008 minutes as printed; seconded by Rindal, all voted in favor and the motion passed.

**II. Federal OSHA Update – Mark Hysell**

OSHA Up-Date & Enforcement News:

1. On January 21 - OSHA published proposed rule on Occupational Exposure to Diacetyl and food flavorings containing Diacetyl

- The proposal seeks public comments on issues related to occupational exposure to diacetyl and food flavorings containing diacetyl
- The relationship between exposure to diacetyl and the development of adverse health effects
- Methods to evaluate and monitor exposure; methods to control exposure; employee training
- Medical observation for adverse health effects related to diacetyl exposure; and related topics
- The agency will accept public comments on the proposed rule for 90 days

2. OSHA announces informal public hearing on proposed Cranes and Derricks Standards in Construction

- The hearing will be held beginning on March 17
- Participants who intend to present testimony must notify OSHA in writing by February 13

This information can be provided to you in alternative formats (Braille, large print or audio).

- On October 9 – OSHA Published Proposed Rule Cranes and Derricks in Construction
- OSHA is proposing a rule to protect employees from the hazards associated with hoisting equipment when used to perform construction activities
- Under this proposed rule, employers would first determine whether the ground is sufficient to support the anticipated weight of hoisting equipment and associated loads
- Required to assess hazards within the work zone that would affect the safe operation of hoisting equipment, such as those of power lines and objects or personnel that would be within the work zone or swing radius of the hoisting equipment
- The employer would be required to ensure that the equipment is in safe operating condition via required inspections and employees in the work zone are trained to recognize hazards associated with the use of the equipment and any related duties that they are assigned to perform
- The proposal includes a requirement for certification of operators and qualified rigging personnel

3. On January 21 - OSHA publishes proposed rulemaking to establish revised Procedures for Fit Testing Respirators

- In 1998, OSHA issued the revised OSHA Respiratory Protection Standard, 29 CFR 1910.134, which incorporated two categories of respirator fit tests, quantitative (port count) and qualitative (smell)
- Some tests, the qualitative method expose wearers to airborne agents to determine if they can detect them and other tests use a machine to measure how much of a test agent leaks into a respirator
- The proposed revisions would allow certain machine-based fit tests to be conducted more quickly, and increase the required score for passing them

4. President Obama has nominated Hilda Solis to be his administration's Labor Secretary

- In 1994, Representative Solis became first Latina elected to the California State Senate
- In 2000, she was first elected to the U.S. Congress
- Became the first woman to win the Profiles in Courage Award from the John F. Kennedy Library Foundation
- Until she is confirmed and appoints the next Assistant Secretary for OSHA, Donald Shalhoub the highest ranking Civil Servant with the Agency is assuming the Acting Assistant Secretary duties

Closer to Home:

1. MNOSHA's 2008 – FFY State OSHA Annual Report and Consultation Annual Project Report

- Final reports were received in the Eau Claire Area Office on January 5<sup>th</sup>
- Presenting evaluation of MNOSHA's performance in Chicago on March 10
- Extremely happy to report each and every indicator and goal that was established for FFY 2008 (the last year of the 5-year strategic plan) was met or exceeded by the MNOSHA program!

2. The Region V Family Meeting is scheduled for July 20 – 22 in Toledo, OH

- Opportunity of the managers of both Federal State enforcement and consultation programs to meet with our State Plan partners to share issues, successes and plans for the future

3. OSHA QuickTakes – a twice monthly e-news product with information about workplace safety and health. Subscribe at [www.osha.gov](http://www.osha.gov). The OSHA Fact Book is another outstanding resource which you can access through the February 1, 2009 version of the QuickTakes.

### **III. Staff Reports: Compliance – James Krueger**

#### INSPECTIONS

- CY 2008
  - Investigated 12 fatalities under MNOSHA jurisdiction and 39 serious injuries
  - Conducted 2517 total inspections
  - Conducted 234 complaint inspections
- Last Quarter 2008 (10/1/08-12/31/08)
  - Investigated 2 fatalities and 8 serious injuries
  - Conducted 519 inspections
  - Conducted 48 complaint inspections

#### CONSTRUCTION BREAKFAST

- May 20, 2008, 57 participants attended a panel discussion
- Sept. 17, 2008, 76 attended Safety for Simultaneous Operations of Heavy Equipment on a Construction Worksite
- Nov. 25, 2008, 57 attended Electrical Hazards in Construction
- Jan. 20, 2009, 85 attended Fall Protection General Applications
- Mar. 17, 2009, Residential Fall Hazard Solutions
- May 19, 2009, Catastrophic Events/Success Stories

#### OUTREACH

- Increased the total number of attendees from 996 in 1st quarter FFY 2008 to 1,637 in the 1<sup>st</sup> quarter of FFY 2009. This increase is the result of the training opportunities with MSC and the AGC.
- Staffed booth at both the Annual Plant Engineering and Facilities Maintenance Show.
- Responded to 1,188 phone calls and 242 written responses (primarily e-mails) related to safety and health issues.
- Continued working with Workplace Safety Consultation to conduct Combustible Dust Seminars throughout the state. Programs were held on Sep 24 in St. Paul, Oct 22 in Cloquet, Nov 19 in St. Cloud.
- Winter issue of Safety Lines is available online at [www.doli.state.mn.us/safeline.html](http://www.doli.state.mn.us/safeline.html)

#### EMPLOYEE TRAINING

- Currently we have 47 reserved spaces at OTI of which 12 have been completed and an additional 8 have completed online classes.
- Six new investigators have completed the required Phases of new investigator training and are conducting their own inspections.
- We have received word that OTI will conduct the OSHA 3110 Fall Arrest Systems in Minnesota for our investigators in June.
- The Employee Right-To-Know refresher was conducted for all investigators during the quarter. Make-up training for the investigators who missed the scheduled training in November and December has been completed.
- Combustible Dust Presentations have been provided to all staff throughout the state in staff meetings.
- Four-hour defensive driving training has been scheduled for staff in March.
- We are currently making arrangements with the Minnesota Safety Council to provide HAZWOPER refresher training for 14 Compliance and Consultation staff members.

#### TWO OPEN POSITIONS

- 1- Metro Health Investigator
- 1- Metro Construction Investigator

NOTE: Currently freezing positions in order to make budget.

## **SIGNIFICANT LEGISLATIVE/RULE MAKING**

- **AWAIR Statute**
  - ✓ Biannual update of covered industries
  - ✓ Effective Date – November 3, 2008
- **Thermoplastic piping (PVC) rule, (new) - MR 5205.0720**
  - ✓ Prohibits use of PVC for compressed air lines unless approved by the manufacturer
  - ✓ Effective Date – November 3, 2008
- **Elevating Work Platform Equipment rule (new) – MR 5205.1310 and 5207.1100**
  - ✓ Fall protection requirements
  - ✓ Effective Date – November 3, 2008

## **OSHSPA**

- The OSHSPA Winter Conference is in Charleston, South Carolina. Alden Hoffman will be in attendance February 9-11, 2009.
- Oregon OSHA published the 2008 Grassroots report. Copies are provided and also available on the Internet at <http://www.cbs.state.or.us/osha/grassroots/pdf/2008-oshspa-report.pdf>

## **IV. Staff Reports: Consultation – James Collins**

### **Human Resources Management**

- Public Sector Industrial Hygienist 3 – position was filled, Tim Froehlig, CIH
- Ergonomics Consultant (Industrial Hygienist 3) looking for qualified applicants in St. Paul Office
- One support staff vacancy. One support staff position was filled – Jennifer Rouleau.
- One vacant Safety Consultant, Principal position – VPP Construction Coordinator. a

### **Federal 21(d) Consultation Budget**

- Continuing Resolution
- Program is being funded at FFY 2008 level

### **OSHCON**

- The nation's project managers will meet in San Diego on April 27-30, 2009, to share information and get ideas on what Federal OSHA will be doing for the year.

### **Federal OSHA Audits**

- Consultation financial audit, December 3-5, 2008 – no findings
- Consultation program audit, December 3-5, 2008 – no findings

### **Federal year productivity (October 1, 2008 – December 31, 2008)**

- Initial visits = 225
- Follow-ups = 26
- Training sessions = 42
- Employers and Employees Trained = 1142
- Hazards = 1109
- Interventions = 91

### **Alliances**

- **Hennepin Technical College ( Eden Prairie & Brooklyn Park )** – conducting annual 2009 residential re-licensing continuing education seminars consisting of 11 sessions between December 2008 and March 2009. The topics for the 2009 seminars that were developed and then approved by CCLD were fall protection written programs and potential exposed health hazards in construction. This session will represent the 11<sup>th</sup> year the construction team has participated in their seminars.

- **Printing Industry of Minnesota** – conducted a seminar on OSHA Recordkeeping and Workers' Compensation Requirements. In 2009, topic of interest may include confined space.
- **Preventing Combustible Dust Explosion** – conducted three seminars in 2008 on Minnesota OSHA combustible dust national emphasis program. We had 86 participants for the two seminars. This training was presented by Minnesota OSHA Compliance, Minnesota OSHA Consultation and BS & B Safety Systems. In 2009, three seminars have been scheduled on February 25, March 25, and April 15.

### **Minnesota Building Trades**

- Participated for instructing the OSHA 10-HR Construction course for Minnesota Electrical Association in Rochester and University of Minnesota, Duluth. Also, presented at Crow River Builders Association in Hutchison, Home Builders Association in Moorhead, The Builders Group in Eagan, and Ryan Company in Pipestone. The classes presented were focused on Introduction to OSHA, Employee Right to Know, Health hazard in construction, Fall Protection, and PPE.

### **Interventions (Construction)**

- Lakes Area Safety Health Organization (LASHO) – preparation for the 2009 quarterly breakfast seminars: design safety in construction and electrical safety. Conducted fall protection plan in December, 2008.
- Minnesota Rural Electric Association – presented methods to comply with NFPA 70-E.

### **MNSTAR**

- Brandenburg - Excel High Bridge Demolition project, MNSTAR effective November 24, 2008.
- Aveda Corporation, MNSTAR effective December 17, 2008.
- Aveda Services, Inc. - Midwest Distribution Center, MNSTAR effective December 17, 2008.

### **MNSHARP Accomplishments**

- Timber Roots – Dover, MNSHARP effective January 27, 2009.

### **PRE-MNSHARP**

- Mortenson - Minnesota Twins Stadium
- Opus Northwest - Cargill
- Kraus Anderson - U of M Children's Hospital
- Knutson - Minneapolis Children's Hospital
- Duke - West End Project
- Ames - Crosstown HWY 62
- Parsons - Owatonna Hospital

### ***Safety Hazard Abatement Grant Program***

- The Safety Hazard Abatement Grant Program
- November 1, 2008-January 30, 2009

Safety Grant Types	Number of Grants	Total Project Costs	Employer Match Fund	State Match Fund
Private Sector	38	\$1,276,743.41	\$987,290.05	\$280,653.36
Public Sector	8	\$66,112.61	\$33,056.31	\$41,756.30
<b>Breakdown of Public Sector Grants</b>				
Schools	1	\$17,400.00	\$8,700.00	\$8,700.00
Cities	7	\$48,712.61	\$24,356.31	\$24,356.30
Counties	0	\$0.00	\$0.00	\$0.00
State	0	\$0.00	\$0.00	\$0.00
<b>TOTAL</b>	<b>46</b>	<b>\$1,342,856.02</b>	<b>\$1,020,446.36</b>	<b>\$322,409.66</b>

**Types of Equipment Purchased**

**Fall protection, ergonomic equipment, Patient lifts, Personal Protection equipment, Scissor lifts, logging equipment, lifting equipment, arc flash protection, gas monitors, eyewash stations, Patient beds**

There was discussion regarding how often Consultation visits construction project sites before and after they have raised the flag of excellence. Sub contractors on these sites are also visited by Consultation. The Sharps programs are site specific. Large employers can apply for free assistance from Consultation as well as small employers – there is no size requirement.

**IV. Old Business –Carol Bufton**

- How can the Advisory Council assist the agency?

Todd reviewed the handout that was developed by staff in response to the council’s request at the last meeting on November 7, 2008. Bufton thanked the staff for their work on this handout and opened up the meeting for discussion on this topic. (see attachment A)

Burski brought forth an item that fits under #4 Brainstorming, regarding MNOSHA citing hearing conservation standards and respirator standards (1910) for contractors for not having a hearing conservation program nor a respirator protection program - and would this be a discussion that workers’ compensation could be involved in - to help reduce overall injury/illness rates in that industry.

Todd added information is currently available and shared from WC to both MNOSHA Compliance and Consultation programs. Some of that information is utilized for targeting to determine which companies should or should not be inspected as well as to provide information on training and feedback when in the field – such as a common injury that has been happening in a specific industry. Collins added the Loggers program is doing just that. For years they have first looked at the WC data and costs of those injuries and then have designed the training programs.

Hoffman added that the construction standard has its own specific standards for hearing conservation and the noise requirements; but in construction for respiratory protection it specifically allows for the enforcement of the 1910 standard identically to the general industry to apply to construction.

There was discussion on a hearing loss WC claim in the construction industry and who is responsible – the employer or the contractor. Todd added that is an issue in the industry that is challenging, she gave an example

of a hearing loss WC claim which is proportioned out based on the amount of time that an individual would have worked at a specific place at which they had the opportunity in which to be exposed.

Todd added the AWAIR program is an overall safety and health program for a specific employer. If that employer is aware that those hazards are present, they need to have a program in place to be able to protect those specific employees from those hazards.

The council members discussed which items on the handout they would like to prioritize, have future presentations on, and discussion topics. See the list below under *V. Future Agenda Items*. Rindal and Smith offered to write an article for a future edition of the Safety Lines newsletter.

## V. Future Agenda Items

- May
  - Presentation on the Workers' Compensation System Report, 2006
  - Discussion on ways to integrate safety and health and workers' compensation
- August
  - Presentation on DLI's Web site
  - Discussion, feedback and recommendations on how to improve Web site
- November
  - Presentation on MNOSHA 5 year strategic plan
  - Discussion and recommendations on orientation package for new advisory council members

Mueller made a motion to adjourn the meeting at 11:36 a.m., seconded by Burski, all voted in favor and motion passed.

Respectfully Submitted,

*Julie A. Klejewski*

Julie A. Klejewski

Attachment A

February 6, 2009

## **Department’s Response to the Advisory Council’s Request: How can the council assist the agency?**

- 1. Include MNOSHA information in your presentations. See power point slides provided.**
- 2. Provide MNOSHA staff with technical experts in the electrical utilities, health care and ergonomics field to conduct training with MNOSHA.**
- 3. Write an article for our newsletter.**
- 4. Brainstorm on additional ways to integrate safety and health and workers’ compensation.**
- 5. Review our Website and provide feedback and recommendations how to improve it.**
- 6. Recommendations on new Advisory Council member orientation package.**
- 7. Develop future agenda items:**

	May	August	November
Presentation	<b>C</b>	<b>A</b>	<b>D</b>
Discussion	<b>E</b>	<b>F</b>	<b>G</b>

Presentation Topics:

- A. Web Site Presentation
- B. Workplace Safety Report (will do in 2010)
- C. Workers’ Compensation System Report
- D. 5 Year Plan

Discussion Topics:

- E. Brainstorm ways to integrate safety and health and workers’ compensation.
- F. Provide feedback and recommendations on how to improve Website.
- G. Recommendations on new Advisory Council member orientation package.