

**OSH Advisory Council Meeting
Minutes
May 4, 2012**

Members Present:

Carol Bufton, Chairwoman
Fay Chawla
Rob Duvall *for Erick Ajax*
Michael Hawthorne
Scott Huberty
Michael Mueller
Elizabeth Rheingans
Greg Rindal
Christopher Schmitt
Dean Tharp
Daryl Tindle

Member Absent:

Kathleen Smith

Staff:

David Berry
Alden Hoffman
Mark Hysell
James Krueger
Assistant Commissioner Jessica Looman
Pamela McLaughlin
John Rajkowski
Cindy Valentine

Visitors:

Matt Marquis
Gary Thaden

I. Call To Order and Announcements

The meeting was called to order at 10:05 a.m. by Chairwoman Carol Bufton and the announcements were read. Council members introduced themselves. A quorum was declared.

Approval of the Agenda

A motion was made and seconded to approve today's meeting agenda with one addition: Future Meeting Topics under Old Business. All voted in favor. Motion carried.

Approval of the Minutes

A motion was made and seconded to approve the February 3, 2012 draft meeting minutes, with one change. All voted in favor. Motion carried.

II. Federal OSHA Update & Enforcement News– Mark Hysell

1. On April 26, 2012, OSHA Issued an Alert on CSE Corporation's SR-100 Self-Contained Self-Rescuer Respirators. Some of the devices have a critical defect which may cause a release of insufficient oxygen during start up. Employers must take immediate steps to replace these respirators with other NIOSH-approved devices, no later than May 31, 2012.
2. On April 17, 2012, OSHA New Directive Outlining Requirements for Communications with Victims' Families Following a Workplace Fatality provides specific guidance when addressing fatality inspections with family members. State Plan state's adoption is not required, but their intent on whether or not to adopt is required.

3. On April 5, 2012, OSHA Announced New National Emphasis Program for Nursing and Residential Care Facilities. In 2010, the incidence rates for healthcare support workers, nursing aides, orderlies and attendants increased. The new program will target nursing homes and residential care facilities in an effort to reduce the occupational illnesses and injuries. State Plan states are required to adopt a program at least, if not more, effective.
4. March 28, 2012, OSHA Seeks Comments on How to Prevent Worker Injuries and Deaths From Reinforcing Concrete Activities and Vehicle Backovers. Deadline for comments is June 27. Workers in the concrete industry use reinforcing methods to strengthen concrete. OSHA data indicate that more than 30 workers died while performing these activities from 2000-2009. Comments can be made at: www.regulations.gov.
5. March 20, 2012, OSHA Revises Hazard Communication Standard Regulation Protects Workers From Dangerous Chemicals, Helps American Businesses Compete Worldwide. MSDS and labeling changes will be made to the Hazard Communication standard, 1910.1200, to align it with the United Nations' Globally Harmonized System of Classification and Labeling of hazardous chemicals. Full implementation of the standard in 2016 will prevent and estimated 43 deaths and result in an estimated \$475.2 million in enhanced productivity by U.S. businesses each year. The name MSDS will change to Safety Data Sheets (SDS).
6. On March 1, 2012, U.S. Department of Labor's OSHA Whistleblower Protection Program Moved to the Office of the Assistant Secretary. Assistant Secretary of Labor, Dr. David Michaels, will oversee the whistleblower enforcement program, which was restructured to further strengthen employees' voices in the workplace. The program has identified a specific budget, independent of other programs, beginning with fiscal year 2012. Regional Area Directors are no longer responsible for the area's whistleblower investigations. Region V has a new assistant regional administrator that monitors the program. A new manual has been developed to identify specific requirements for investigations of whistleblower complaints in the U.S. and State Plan state adoption for the manual is required.
7. On January 4, 2012, OSHA Announced the New Directive Continues for a Targeted Inspection Program for Protecting Federal Workers. This inspection protocol gives guidance for carrying out programmed inspections at some of the most hazardous federal workplaces.
8. On December 8, 2012, OSHA Continues to Cite Beauty Salons and Manufacturers for Formaldehyde Exposure from Hair Smoothing Products. During 2011, citations were issued to 23 salon owners and beauty schools across the country, with fines ranging up to \$17,500 for failing to protect workers from overexposure and potential exposure to formaldehyde.
9. On November 30, 2011, OSHA issues new National Emphasis Program for Chemical Facilities, replaces the 2009 pilot program of three regions, expanding it to all 10 regions.

CLOSER TO HOME:

1. The FAME and RACER Reports Summarizing MNOSHA's FY 2011 Performance in Achievement of Annual Goals are completed for both MNOSHA Compliance and Consultation programs.
2. The Region V Annual OSHA Family Meeting is scheduled for August 20-22, 2012 in Minneapolis.

III. Department Update

- Legislative Items – Jessica Looman, Assistant Commissioner Construction Codes and Labor Standards. Five items were proposed to the Legislature: clean up language in construction codes and licensing divisions, clean up language to ensure our state apprenticeship program conformed to the national apprenticeship program, language to protect consumers in home solicitation sales with the right of 3-day refusal, window cleaning roof-anchoring systems, misclassification of independent contractor worker initiative-primarily in construction trades.

The ICEC bill passed the House 118-9. Construction contractors are required to register with DLI. Penalties are stayed if the employer registers with DLI within 30-days of receiving notification of the requirement to register.

- SF 1653/HF 2093 - DLI entered into a MOU with the USDOL last September to address the misclassification of independent contractor issue for all workers (not only those in the construction industry). A standing committee is set up, representing all four of DLI's divisions, working to ensure consistency in provisions, exemptions, and definitions.
- SF 2067/HF 2173 - Home solicitation bill protects consumers against unethical, high pressure home improvement (construction siding and roofing) sales. DLI worked with the Department of Commerce to make the provision of a 3-day right of refusal was added to an existing statute, and was approved by both Houses. Outside agencies can view the registry as it is public information, and can be shared with other government agencies.
- SF 1964/HF 2263 - Window-cleaning roof-anchoring systems on new commercial construction or any major roof remodeling projects was passed by the Legislature. Also, the provision will be included in the 2012 Building Code, which we are in the process of adopting, and plan to implement it early next year.
- Workers' Compensation System Report – David Berry, Research & Statistics. The 2010 report is available on DLI's website: www.dli.mn.state.us. The differences in how injuries and illnesses are counted in Minnesota OSHA and Workers' Compensation are described in the report. See PowerPoint presentation, attached.

IV. New Business - None

V. Old Business

- Prioritize Potential Topics/Issues/Information of Future Meetings. Members discussed ranking potential topics. Members are to forward their prioritized rankings to Mike Mueller, who will compile the Topic List results.
- Off-Site Meetings. Cindy will follow up as to whether the Council can hold meetings at a location other than DLI.

VII. Staff Reports

COMPLIANCE – James Krueger

Inspections - Federal Fiscal Year 2012 – 2nd Quarter

- 705 inspections were conducted
- Investigated 3 fatality cases and 8 serious injury cases that occurred within MNOSHA jurisdiction
- Handled 133 complaints, which resulted in 68 on-site inspections

Construction Seminar (formerly the Construction Breakfast)

- January 17, 2012: The New Crane Standard
- March 13, 2012: Change in Residential Fall Protection (Total 183 attended)
- May 15, 2012: Window Washing and Suspended Scaffolds

Note: Staff members from each OSHA group attend these seminars, to meet with and answer questions outside of a compliance inspection.

Outreach

- MNOSHA Compliance Division gave a total of 32 presentations to 1583 attendees.
- The Division responded to 1,124 telephone calls (40% employees, 35% employers) and 534 written requests (primarily e-mails) related to safety and health issues.

Training

Nineteen MNOSHA Compliance personnel participated in OTI training events. Those courses included the OSHA 1410 Inspection Techniques and Legal Aspects, OSHA 2010 Hazardous Materials, OSHA 2200 Industrial Noise, OSHA 2220 Respiratory Protection, OSHA 3010 Excavation, Trenching and Soil Mechanics, OSHA 3080 Principles of Scaffolding, OSHA 3220 Applied Welding Principles and OSHA 3320 Combustible Dust Hazards and Control.

In-House Staff Training

- MNOSHA welcomed two new investigators in late February: one industrial hygienist and one safety investigator. They have completed their Phase I and II new investigator training and will complete Phase III training in May
- The investigative staff were provided annual Employee Right-to-Know refresher training as part of their regularly scheduled staff meetings.
- The investigative staff members have been provided training on identifying silica exposures and are currently taking excavation training.

Technology

- Updated computers for all staff.
- Updated digital recorders and digital cameras for investigative staff.

Staffing

- A new investigator was hired in the Discrimination unit, April 25, 2012.

Significant Legislation/Rulemaking

- **Window Cleaning, Building Maintenance** (Minn. Rule 5205.0730) became in effect March 1, 2012. This rule is intended to provide clarity to window washing contractors and building maintenance contractors that provide interior or exterior window washing or building maintenance operations or services more than 14 feet above grade or an adjoining flat roof or other flat surface. See press release on MNOSHA's website: <http://www.dli.mn.gov/WindowWashingStandard.asp>.
- **Globally Harmonized System** (published 3/26/12 by federal OSHA). In lieu of the federal HazCom standard, Minnesota has its own Right-to-Know rule (Minn. Rules 5206), which covers chemicals, harmful physical agents and infectious agents and requires annual training. MNOSHA's goal in formulating their rulemaking intent will be to retain the current, more effective requirements in RTK rules, while incorporating the GHS requirements.
- **Emphasis Programs**
 - Window Washing
 - Excavations
 - Residential Construction (fall protection)
 - Crane Inspection
 - Silica in Construction

Federal OSHA Audit

On January 17-20, 2012, the Eau Claire Area Office conducted the FFY 2011 on-site review. Their report is pending. No significant issues were identified.

OSHSPA Meeting

- James Krueger, Cindy Valentine, and Laura Zajac (General Counsel) attended the OSHSPA meeting in Louisville, Kentucky February 14-15.
- James Krueger is planning to attend the OSHSPA conference in Alaska the last week of May.

MNOSHA WORKPLACE SAFETY CONSULTATION (WSC) Update – Cindy Valentine

Staffing: We welcome Roslyn Robertson as our new Director of the Consultation unit, beginning May 23.

Second Quarter FFY2012 Statistics

- 206 initial visits completed.
- 917 serious hazards identified and 219 “other than serious” (OTS) hazards.
- 43 training visits were conducted, impacting 112 employers and 804 employees.
- 138 Interventions (includes formal training, meetings w/professional groups, VPP, more involved technical assistance...) impacting 2111 employers and 3025 employees
- 39 follow up visits.

Program Updates

Marketing Research – options to promote WSC services to small employers.

Young Workers – continue to promote outreach/training.

Ergonomics

The main focus continues to be safe patient handling in nursing homes, in addition to hospitals, dental clinics, office workstations, wood product, metal fabrication and soap/detergent manufacturing. Assistance to MNSHARP sites to improve ergonomics awareness and analysis of work stations and program development.

- Outreach/Training/Consultation Visits 2nd Quarter FFY2012:
 - MN Hospital Association – developing a safe patient handling “road map for success.”
 - Care Providers Alliance – completed visits at two remaining sites.
 - MN Safety Conference – planning/organization of speakers.
 - Research & Statistics – designed survey to determine the impact of the SPH statute on healthcare worksites, of those who received a safety grant through DLI. A 76% response rate was received.
 - Healthcare Group Alliance – quarterly meetings with representatives from area hospitals to discuss SPH issues, challenges, and best practices. Next meeting: July 11.
- Statistics 2nd Quarter FFY2012
 - Six initial visits
 - Five training
 - 13 Interventions
 - Training and interventions impacted 32 employers and 166 employees.

LogSafe

- Hibbing Community College will be conducting the 2012 LogSafe training. Participant feedback has been positive and the 2012 schedule has been released on the college's website.
- Outreach/Training/Consultation Visits 2nd Quarter FFY2012:
 - 11 consultation visits (construction and logging/tree-cutting & trimming)
 - Three visits to logging, landscape and tree cutting/trimming
 - 13 formal training interventions on chain saw safety and hands-on tree felling
 - One session on fall protection
 - One session on rigging
 - Overall, 71 employers and 308 employees were impacted.

Other Training and Outreach 2nd Quarter FFY2012

- Workplace Violence Prevention training session for MNOSHA Compliance and Consultation staff
 - Youth Emphasis. One presentation on OSHA and hazard recognition for youth held at the MN Dept. of Education and Job Corp Conference.
 - Six presentations on natural disasters and emergency action planning to a local school district.
- Construction training/outreach/technical assistance (50)
 - Formal training and technical assistance on various construction topics including: scaffolding (3), commercial & residential fall protection (13), electrical hazards (4), construction focus four (3), excavations (7), health hazards (9), general safety & health (6), rigging (1).
 - Monthly meetings w/alliance partner, Labor Users Contractors on Pro-10 program.
 - MNDOT Construction Inspectors Workshop (1-day conference).
 - General Industry training/outreach (52)

Safety Grants

- Total grant applications received and reviewed – 50
 - Total requested grant money: 4412,506.23
 - Total project costs: \$1,553,521.58
 - Money awarded: \$270,913.62
- Total grants – private companies
 - construction - 8
 - manufacturing - 8
 - service – 19
 - 6 logging
- Total grants – public entities
 - Service – 9
- Current priority is being awarded to projects involving residential construction fall protection, tuckpointing and other industries dealing with silica, window washing equipment, grain handling equipment.

OSHA Review Board met March 29, 2012 for the first time since December 2010. Three cases (late contestations) were reviewed. The Department's position was affirmed on all three cases and the Orders will be final around May 7. Leonard Price was appointed to the Review Board, as a public representative, by Governor Dayton,

MNSHARP

- General Industry sites: 39
- Pre-MNSHARP site: 1
- Construction sites: 3
- Pre-MNSHARP sites: 8

MNSTAR

- Sites: 30
- Merit sites: 4

VIII. Reports/Publications

- Fatality/Serious Injury Log - available online at <http://www.dli.mn.gov/OSHA/Information.asp>
- The April 2012 edition of *Safety Lines* has been posted on DLI's web site. Articles include: the new window-washing standard, hair-straightening salon products, the annual safety report from Research & Statistics, the most cited standards for 2011, and resources available from the Department. (Next issue: July)
- The 2011 OSHSPA Grassroots publication (for FFY2010) is available on the web: <http://www.osha.gov/dcsp/osp/oshspa/grass2011.pdf>.
- MNOSHA has updated its poster (in English and Spanish) and the Department is planning a mid-May release.

Future Agenda Items

- Future agenda items were discussed. Members are to forward their priority rankings to Mike Mueller who will compile the results, which will be sent to the members.
- **2012 Meeting Dates:** August 3, November 2.

REMINDERS:

2012 Workers' Compensation Summit – June 12-13, Cragun's Resort. Registration deadline is May 25.

Minnesota Safety & Health Conference – May 8-11.

IX. Adjournment

A motion to adjourn was made by Michael Hawthorne; seconded by Mike Mueller. No further discussion. All voted in favor, and the meeting was adjourned at 12:01 p.m.

Respectfully Submitted,

Pamela McLaughlin

Recording Secretary