

**OSH Advisory Council meeting  
Minutes  
Nov. 4, 2011**

**Members present**

Erick Ajax  
Melanie Allen  
Carol Bufton, chairwoman  
Fay Chawla  
Scott Huberty  
Michael Mueller  
Elizabeth Rheingans  
Greg Rindal  
Kathy Smith  
Dean Tharp  
Daryl Tindle

**Members absent**

Michael Hawthorne

**Staff members present**

Gary Hall, assistant commissioner  
Alden Hoffman  
James Krueger  
Pamela McLaughlin  
John Rajkowski  
Pat Todd  
Cindy Valentine

**Visitors present**

Mark Hysell  
Matt Marquis  
Ruth Rasmussen  
Christopher Schmitt  
Gary Thaden

The meeting was called to order at 10:03 a.m. by Chairwoman Carol Bufton and announcements were read.

*Michael Mueller made a motion to approve the meeting agenda as presented and Fay Chawla seconded the motion. Greg Rindal made a motion that the May 6, 2011, draft meeting minutes be approved and Michael Mueller seconded the motion. There was no further discussion. All voted in favor and the motion to approve the minutes passed.*

**I. Department introductions**

DLI staff members, visitors and council members introduced themselves. Chairwoman Bufton welcomed new members and staff members: Liz Rheingans, safety director at CHS, and Cindy Valentine, DLI's Workplace Safety and Technology manager, both of whom provided some background information to the council; and Scott Huberty, loss control and safety consultant with Meadowbrook Insurance Group.

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

**1. On Oct. 3, 2011, OSHA released three new trenching educational products**

- A *Trenching and Excavation Fact Sheet* provides an overview of trenching hazards and safety measures to protect workers.
- *Working Safely in Trenches* is a “QuickCard,” an easy-to-use guide about trenching hazards and safety measures, with graphics.
- The *Do Not Enter an Unprotected Trench!* poster is intended for construction workplaces.
- Subjects covered in the three documents include: proper shoring and sloping; evaluations by competent persons; means of access/egress; atmospheric hazard testing; and protective systems.

- The guidance describes the protective measures that are required by OSHA’s excavation standards, 29 CFR 1926.650, 29 CFR 1926.651 and 29 CFR 1926.652, which are available in Spanish as well as English.
2. ***On Sept. 15, 2011, \$10.7 million Susan Harwood safety and health grant training awards***
    - Thirty-seven new grantees and 32 returning recipients, including nonprofit and community/faith-based groups, business and trade associations, labor unions, joint labor/management associations and colleges and universities
    - Twenty new organizations were awarded approximately \$3.2 million in Capacity Building Developmental Grants to develop their expertise and capacity to provide occupational health and safety training and education.
    - Five organizations received a combined \$400,000 for pilot grants to lay the groundwork for self-sufficient safety and health education programs.
    - A total of \$1.3 million was awarded to 10 organizations as Targeted Topic Training Grants and \$100,000 was awarded to two organizations in the form of Training and Educational Material Development Grants.
    - Approximately \$5.7 million was awarded to 32 of last year’s Capacity Building Developmental Grant recipients that demonstrated satisfactory performance.
    - A total of 10 grants were awarded to applicants in Region V, one in particular:
      - The University of Wisconsin-River Falls received \$134,039 to build long-term health and safety capacity and provided training sessions to farmers and workers in the dairy industry. Train-the-trainer opportunities will be offered at 16 locations throughout Wisconsin.
  3. ***On Aug. 11, 2011, OSHA announced the release of a mobile app to help protect workers from heat-related illnesses***
    - The app is available (at no charge) for employees and employer, in both English and Spanish. It combines heat index data from the U.S. National Oceanic and Atmospheric Administration (NOAA) with the user’s location to determine necessary protective measures. More than 30 workers died from heat stroke in 2009; thousands become ill from heat exhaustion and other heat-related illnesses each year.
  4. ***On June 2, 2011, OSHA issued a new national emphasis program directive in the primary metals industries***
    - Establishments in the primary metals industries are involved in extracting and refining metals. This program was developed in response to the seriousness and frequency of workers exposed to metal dusts, fumes, carbon monoxide, lead and silica, noise and heat hazards.
  5. ***On May 25, 2011, OSHA published a new compliance assistance tool to help employers prevent fall-related injuries/deaths in residential construction (a slide presentation is available on OSHA’s website)***
    - A slide presentation is one of many formats used to reach out to the residential construction industry and provide information and assistance to employers in residential construction.
    - In December 2010, OSHA announced a new directive withdrawing the Interim Fall Protection Compliance Guidelines for Residential Construction, Standard 03-00-001, that allowed residential builders to bypass fall protection requirements. With the issuance of the new directive, all residential construction employers must comply with 29 Code of Federal Regulations 1926.501(b) (13). Falls are the leading cause of death for workers involved in construction.

## Closer to home

1. ***In August 2011, the Eau Claire Area Office completed the review of MNOSHA's 21(d) Workers' Safety Consultation and 23(g) OSHA Enforcement – FY2012 grant applications***
  - In September 2011, letters were sent to Commissioner Ken Peterson outlining the initial approval of more than \$4 million awarded to MNOSHA Compliance and almost \$1 million awarded to MNOSHA Workplace Safety Consultation pending final Congressional and executive action on the OSHA appropriations bill.
2. ***On Nov. 1, 2011, the local emphasis program for dairy farm operations in Wisconsin became effective***
  - The purpose of the notice is to establish an LEP for programmed inspections of establishments within the dairy farming industry having operations classified as dairy cattle and milk production under the NAICS code 11212.
  - The number of dairy farms in Wisconsin has steadily decreased from approximately 60,000 in 1970 to approximately 15,000 in 2007 (a 75 percent reduction).
  - In 2007, it was reported there was an increase in milk production of 33 percent, resulting in an increase in workers hired to manage larger herds of cattle. More than 50 percent of Wisconsin's injuries and fatalities occur within the agriculture industry, where traditionally OSHA has had no jurisdiction. This industry has grown into OSHA coverage and a significant amount of outreach is planned.
  - Since June 2006, federal OSHA has conducted only five fatality investigations in this industry. Had there been an inspection protocol, many more would have been covered by OSHA.
3. ***Mark Knezovich***, Mark's assistant to monitor and oversee the MNOSHA program, has taken a promotional opportunity in the Region V Office, starting next week. Tracy Dallman will take over those duties in the near future and she will be officially introduced to the council sometime after that.
4. ***Susan Harwood grants*** – A list of the 2011 Susan Harwood health-related grants can be found online at [www.osha.gov/dte/sharwood/grant\\_awards.html](http://www.osha.gov/dte/sharwood/grant_awards.html) or by topic (under Grantee-developed Training Materials) at [www.osha.gov/dte/sharwood](http://www.osha.gov/dte/sharwood).

### III. Staff reports: Workplace Safety Consultation – Pat Todd

#### 1. ***Program changes***

- Workplace Safety Consultation (WSC) changes have been publicized in *Safety Lines*, as well as online.
  - The reduction of the exemption time-frame of enforcement scheduled visits to consultation sites has been reduced from 60 to 10 business days, which is consistent with neighboring states that have similar timeframes.
  - The hazard abatement time-frame for construction hazards has been reduced to a maximum of 10 days. This is 30 days from the consultation visit date. The time-frame to abate begins when the employer has been informed of the hazard (at the closing conference) and typically it takes 10 to 15 days to generate and send the report to the employer. The 10-day abatement time-frame begins when the employer physically receives the report. If a longer abatement time is required or an extension is requested, supervisory approval is necessary.
  - The frequency of scheduled return consultation visits to construction sites will be no more than one every three months at large construction sites.

- Efforts to market to other Minneosta contractor employers, that have not used WSC in the past, will be increased.

#### ***MNSTAR/MNSHARP team***

- Two additional consultants have been added to MNSHARP Construction to work on some of the larger construction projects around the state (projects lasting longer than 18 months in duration).
  - One industrial hygienist and one safety consultant have been added for general industry.
  - One industrial hygienist and one safety consultant have been added for construction.
- Two consultants have been hired for the MNSTAR Program.
  - One industrial hygienist and one safety consultant have been added.

#### **Safety grants – Cindy Valentine, Workplace Safety and Technology manager**

- A new administrator, Margie Mohr, has been hired for the safety grant program.
  - There were 291 applications submitted, with 206 granted to private companies.
  - Total project costs were \$1,986,000, and \$945,000 was awarded in grants to:
    - 25 to construction companies; 52 to manufacturing companies; 48 to service companies (specific to patient handling); nine to logging companies; and 83 to public entities, including five with safe patient-handling.
  - The focus areas are: in the construction industry, residential fall-protection, tuckpointing and other industries dealing with silica; in the service industry, window washing; and in general industry, grain-handling equipment. Outreach will be provided via the *State Register* and a news release about these areas.
  - The legislative session is about to start in February. DLI has been contacted by a member of the House asking for more information about the safety grants program. DLI is developing talking points about the program and has begun to notify legislators when safety grants have been awarded to companies and organizations in their districts.
  - The source of funding is from the workers' compensation Assigned Risk Safety Fund, which comes from workers' compensation penalty payments.

### **IV. Staff reports: Compliance – James Krueger**

#### ***Inspections***

- Federal-fiscal-year 2011 (Oct. 1, 2010, through Sept. 30, 2011)
  - Twenty-one fatality and 25 serious-injury cases were investigated within MNOSHA jurisdiction.
  - MNOSHA conducted 2,325 inspections, but its annual goal of 2,500 inspections was not met. The state shutdown in July resulted in a loss of approximately 220 inspections.
  - MNOSHA handled 578 complaints, which resulted in 285 on-site visits; 293 of those were issued a letter, with a follow up of some type of abatement.

#### ***Shutdown***

- During the state government shutdown in July, seven staff members were in the office. Four fatality inspections were conducted and many heat stress concerns were received.

#### ***Construction seminars*** (formerly the Construction Breakfasts)

- Nov. 8, 2011: Getting to know Minnesota OSHA
- Jan. 17, 2012: The new crane standard
- March 13, 2012: Change in residential fall-protection

- May 15, 2012: Window washing and suspended scaffolds
- Notes: Staff members from each group are scheduled to attend these seminars to meet with stakeholders and answer questions outside of a compliance inspection.

### ***Outreach***

- During federal-fiscal-year 2011, MNOSHA Compliance gave a total of 122 presentations to 4,500 attendees.
- During federal-fiscal-year 2011, MNOSHA Compliance responded to 4,459 phone calls (40 percent employees, 30 percent employers) and 1,758 written requests (primarily email) related to safety and health issues.

### ***Publications***

- Minnesota's heat stress booklet underwent a major revision. Changes included revisiting the ACGIH Threshold Limit Value to the current version and adding an additional resources page.

### ***Training***

#### **In-house staff**

- Two industrial hygienists and four safety investigators were hired during the last quarter. They have completed both Phase I and Phase II training.
- Ten safety investigators and three industrial hygienists were hired during federal-fiscal-year 2011.
- On March 15, all safety investigators attended a four-and-a-half-hour class about the new construction crane standard.
- During monthly staff meetings, MNOSHA Compliance did its annual employee right-to-know, electrical hazards and excavation training.
- Compliance and WSC are currently doing joint training for staff members. This involves the Phase IV training that uses both enforcement and consultation staff members.

#### **OSHA Training Institute**

- Totals for staff training in federal-fiscal-year 2011:
  - staff members attended 20 different classes, primarily at the OSHA Training Institute, including fall protection, confined space, excavation, machine guarding, power press and electrical; and
  - specialized training involved combustible dust, discrimination, steel erection and PSM.

### ***Significant legislation/rulmaking/compliance guidance***

#### **Safe patient handling:** 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, with 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).

### ***Standards and rules***

#### **Minnesota rules proposal**

- The following **proposal** was published in the *State Register* by DLI on Oct. 31, 2011. The comment period closes Nov. 30, 2011; written comments or request for hearing should be submitted to Carrie Rohling, DLI Office of General Counsel.
  - To add new Minnesota Rules 5205.0730 – Window cleaning, building maintenance: The standard is being proposed to provide clarity for 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.
- To amend Minnesota Rules 5205.0650 to bring Part 5205.0720 – Thermoplastic piping (PVC pipe) – within the scope of the standards that address the maintenance and repair of buildings and equipment, which was intended when part 5205.0720 was adopted.

### **Federal adoption-by-reference**

- General Working Conditions in Shipyard Employment – On May 2, 2011, federal OSHA published in the *Federal Register*, the final rule for general working conditions in shipyard employment. The final rule is enforceable at the federal level and will become enforceable in Minnesota upon adoption, which is scheduled for Nov. 14, 2011.
- Standards Improvement Project – Phase III – On June 8, 2011, federal OSHA published in the *Federal Register*, Phase III of the Standards Improvement Project, which allows removal or revision of individual requirements within rules that are confusing, outdated, duplicative or inconsistent. The final rule is enforceable at the federal level and will become enforceable in Minnesota upon adoption, which is scheduled for Nov. 14, 2011.

### **Reminder: 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, such as 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).

### ***Audit results***

- On Feb. 8 and 9, 2011, the Eau Claire office conducted the federal-fiscal-year-2010 followup on-site review. The agency received the results July 18, 2011. Two items were identified for review and possible corrective action. Five items remained open for evaluation in federal-fiscal-year 2011. The commissioner responded on July 28, 2011, that all items had been addressed and resolved. The results are available on federal OSHA's website, as well as Minnesota OSHA's website.
- Minnesota OSHA looks forward to the coming federal audit in early 2012.

### ***OSHSPA/family meeting***

- James Krueger attended the Occupational Safety and Health State Plan Association (OSHSPA) meeting in Bellevue, Wash., Oct. 4 and 5. Key issues included: consistent monitoring system, NEPs and federal penalty increases. Krueger was elected as one of the OSHSPA board members and will serve for two years.
- Alden Hoffman attended the Region V family meeting in Chicago, Ill., Aug. 16 through 18.

## V. MNOSHA Workplace Safety Consultation update

### *Federal-fiscal-year-2011 statistics*

- Workplace Safety Consultation (WSC) has had a 38 percent turnover in its staff, 17 percent consultants.
- WSC exceeded its goal of 900 consultation visits, for a total of 1,086 on-site visits – 129 follow up and 167 training – that impacted 555 employers and 2,536 employees.
- WSC identified 4,039 serious hazards and 1,005 “other than serious” hazards.
- WSC conducted 273 interventions (that included formal training, meetings with professional groups, VPP, more involved technical assistance and more) impacting 4,296 employers and 8,680 employees.

### *MNSTAR Program*

- An informational handout has been updated, which provides comprehensive information about the program: how it functions and what it strives to accomplish.
  - Currently, there are 31 MNSTAR sites and four MNSTAR merit sites.
- In federal-fiscal-year 2011: three MNSTAR sites, two MNSTAR merit sites and seven recertified as MNSTAR sites. Two MNSTAR applications are currently in the process of review.

### *MNSHARP*

- Currently, there are 43 general industry MNSHARP sites (one in pre-SHARP status).
- There are two MNSHARP Construction sites.
- In federal-fiscal-year 2011: four sites were certified as MNSHARP sites and 14 sites were recertified as MNSHARP sites.

### *Ergonomics*

**Alliance with Care Providers of Minnesota** – WSC continued scheduling of on-site visits that provide an opportunity for hands-on training for facility staff members and those from other invited facilities. In 2011, eight member-sites were scheduled for on-site consultations with training.

**Healthcare Group Alliance** – WSC is scheduling quarterly meetings with representatives from area hospitals to discuss safe-patient-handling issues, challenges and best practices. The meetings will be at DLI and will provide a venue for open discussion of best practices and challenges being encountered, for the purpose of sharing information and brainstorming ideas. The next meeting is scheduled for Nov. 9.

### **Outreach/training/consultation visits during the fourth quarter of federal-fiscal-year 2011**

- Association of Occupational Health Professionals – staffed a booth
- Minnesota Dental Association – finalizing development of a sample hazard-assessment tool that will be a reference for dental clinics when assessing their safe-patient-handling needs
- Presentation for the Minnesota Bottlers Association – in response to a letter sent about ergonomic risk factors
- Presentation for the Outpatient Surgical Center Association – about safe patient-handling
- Laborers District Council of Minnesota – general safety and health topics/questions

### *LogSafe*

- Fall LogSafe training has started. October sessions have been completed and one session (Dec. 7) remains.

### **Outreach/training/consultation visits during federal-fiscal-year 2011**

- There were 68 consultation visits, 17 formal training sessions tied to consultation visits and 60 interventions (mainly formal training). There has been a high demand for chain saw safety and maintenance training from public sector entities and some private employers (including logging employers). One hundred seventy-two employers and 1,057 employees were impacted.

## **VI. Reports**

- Fatality/serious injury log available at [www.dli.mn.gov/OSHA/Information.asp](http://www.dli.mn.gov/OSHA/Information.asp)
- Most recent edition of *Safety Lines* available at [www.dli.mn.gov/OSHA/PDF/71\\_0411sl.pdf](http://www.dli.mn.gov/OSHA/PDF/71_0411sl.pdf)

## **VII. Future agenda items**

- Chairwoman Bufton stated the topic list has been completed. Members are to consider discussion topics, issues and information from MNOSHA/WSC and to suggest ideas about what direction the OSHAC will take in 2012. Bufton will collect the topic list and Pamela McLaughlin will email it to the members.
- Cindy Valentine was asked to brief the members about legislative updates regarding the safety grant program.
- **2012 meeting dates are:** Feb. 3, May 4, Aug. 3 and Nov. 2.
- **2012 term expirations:** Members with expiring terms (January 2012) were reminded to submit their applications for re-appointment to the Secretary of State's office. Information about how to apply and the link to the Secretary of State's website will be emailed to members.
- **Statutory meeting date requirements:** Dean Tharp asked whether the council will need to make up the meeting that was canceled in August. Gary Hall will follow up and respond.

*A motion to adjourn was made by Dean Tharp; it was seconded by Michael Mueller. All voted in favor and the meeting was adjourned at 11:04 a.m.*

Respectfully submitted,

*Pamela McLaughlin*

Executive Secretary