DEPARTMENT OF LABOR AND INDUSTRY

# Minutes: Occupational Safety and Health Advisory Council

Date: Friday, June 21, 2024
Time: 10 a.m. to noon
Location: In person in the Department of Labor and Industry's (DLI's) Minnesota Room and via Webex

## Call to order: Paul Aasen, chairman

- Roll call by Gretchen Longbehn, executive secretary
- Approval of the June 21, 2024, meeting agenda
  - Meeting agenda has been approved
- Approval of the Nov. 17, 2023, meeting minutes
  - Meeting minutes have been approved

## Council member introductions: Paul Aasen, chairman

## DLI announcements and updates: Nicole Blissenbach, commissioner

- Updates were related to legislative session:
  - enforcing the misclassification laws; and
  - the transportation network company bill.
    - It is safety related; there was one provision of the bill that provides additional insurance for drivers; that is kind of an occupational accident insurance.
  - We are also seeking some modification to the earned sick and safe time law that passed this session.
    - We will be hearing from employers and employees about some of the things in the law that could change.
  - We had some legislative changes in:
    - the warehouse workers safety bill; and
    - some technical changes to the ergonomics bill that passed.

## Federal OSHA update: Mitzy Wright

## Minnesota OSHA Workplace Safety Consultation update: Ryan Nosan

### Minnesota OSHA Workplace Safety Consultation statistics, fiscal-year 2024, quarters one and two

**Consultation visits**

- Four hundred eight total visits: 316 safety; and 92 health
- Forty-five formal trainings
- Thirty-six follow-up visits

- Three hundred twelve informal trainings (during on-site visits)

**Hazards identified**

- Instances of observed hazards – 1,474: 1,340 serious (including imminent); 126 other-than-serious; six regulatory (such as recordkeeping); and two imminent danger

**Total interventions**

- One hundred forty-one interventions: formal training, Minnesota STAR (MNSTAR) Program activities and technical assistance; impacting 1,899 establishments and 3,082 employees attended.

**Other highlights**

- Completed 10 safety assessments for the Youth Skills Training program.
- Completed nine workplace violence prevention interventions with different stakeholders.
- Staffed booths at multiple events:
  - Associated General Contractors of Minnesota conference;
  - American Society of Safety Professionals Northwest Chapter – Professional Development Conference;
  - Care Providers of Minnesota conference;
  - Leading Age conference;
  - Minnesota Dental Association;
  - Board of Public Defense; and
  - Minnesota Safety Council, Regional Safety Day event in Mankato.
- Continue to provide technical assistance through interventions and formal training sessions about a variety of topics to individual stakeholders throughout the state.
- Since our most recent meeting, we have had a successful transition to our upgraded OSHA Express system, which went live Oct. 2.
- We have done an extensive amount of marketing on our services to areas that were added to the strategic plan, including events with:
  - Hospitality Minnesota;
  - Minnesota Ski Association;
  - Retail Association;
  - Tire Industry Association; and
  - Midwest Manufacturers Association.
    - It still surprises me how many employers do not our service exists.

**Alliance program**

- Electrical Association: Ongoing newsletter articles submitted; the Minnesota Electrical Association (MEA) recently changed its format to an electronic publication, so it is not going out as often.
  - In October, we recapped the legislative session and, in May, we drafted an article about falls to mirror the national fall protection stand-down week.
  - We continue to participate in the MEA Education Committee meetings.
- Consulate of Mexican, St. Paul: We completed six presentations as part of our alliance with the consulate.
  - We are working with the consulate about renewing the current alliance.
- Grain Operations Safety Professionals: This alliance was initiated in October 2023.

- Regular meetings with the group and the consultant who has been behind the initiation of the alliance.

**Minnesota Safety and Health Achievement Recognition Program (MNSHARP)**

- General industry: 35 MNSHARP worksites; four pre-MNSHARP worksites
- Construction: nine MNSHARP Construction worksites; one Pre-MNSHARP Construction worksite

**Minnesota Star (MNSTAR) Program** – Minnesota's Voluntary Protection Program

- Thirty-five MNSTAR Program worksites

**Safety Grant Program** (state-fiscal-year 2024; cycles four, five and six, Oct. 16, 2023, through April 15, 2024)

- One hundred thirty-nine grant applications received and reviewed: 41 public sector; 40 construction; 22 manufacturing; five health care; three logging; and 28 other
- Sixty-seven applicants received funding, totaling approximately $370K.

**Ergonomics Safety Grant Program** (since July 1, 2023)

- Thirty-eight ergonomics grant applications received and reviewed: 34 health care; two meatpacking; and two warehousing
- Of the applications received, two have been denied.
- Awarded approximately $270K (we have not completed the award amounts for the cycle that just ended).
  - Funds are available until June 30, 2026.
- Outreach to the covered industries:
  - mailed approximately 450 letters using the ITA responder list to the covered industries thanking them for reporting, as well as promoting the ergonomics grants and MNOSHA Workplace Safety Consultation services; and
  - will be mimicking this marketing letter for both meatpacking and warehousing in July.

**MNOSHA Workplace Safety Consultation – federal OSHA**

- Currently working on our federal grant application and Consultation Annual Project Plan (CAPP) for federal-fiscal-year 2025.
  - CAPP is our plan for how we will achieve our goals for the coming year.
- A meeting with federal OSHA occurred during the last week of May; state-plan and consultation programs were informed of budget cuts.
  - We were informed our specific program would be reduced by $41,000 for the remainder of federal-fiscal-year 2024 and that the reduction will also go into federal-fiscal-year 2025.
    - Across all consultation programs, this is an approximate $2.3M reduction.
  - This required us to resubmit our financial paperwork for our federal-fiscal-year 2024 grant application.

**Staffing**

- We have completed interviews for two open positions within the unit.
  - We are hoping to have these filled as quickly as possible.

# MNOSHA Compliance training and outreach update:  Matt Lucas

## Training activities during the first and second quarters of federal-fiscal-year 2024

**Training and the number of enforcement staff attended**

- 3400 Hazards Analysis in the Chemical Processing Industries:  three
- 3430 Advanced PSM in Chemical Processing:  two
- 3090 Electrical Standards:  two
- Industrial Noise:  one
- 3110 Fall Protection:  four
- 1611 Interviewing Techniques for Whistleblower Investigators:  two
- 9450 Advanced Legal Aspects for OSHA Managers:  two
- Asbestos Inspector Initial Class:  three
- Negotiate for Agreement:  two
- 2255 Principles of Ergonomics:  two
- 2260 Permit Required Confined Space:  35 (enforcement and consultation; training in Minnesota)

**Training and the number of consultation staff attended**

- 1500 Introduction to On-site Consultation:  four
- Industrial noise:  one

### Internal classes

In six months, we hired three industrial hygienists and four safety investigators. We also hired one supervisor for discrimination, Pat Donahue, and one supervisor for training, Rob Balsavich. We conduct in-house training each month.

### Other training

We conducted in-house training about foundries for 28 staff members. We conducted the annual right-to-know training for all staff members during the first quarter. We also celebrated the 50th anniversary of MNOSHA.

## Outreach activities during the first and second quarters, federal-fiscal-year 2024

During the first two quarters of federal-fisal-year 2024, MNOSHA Compliance personnel gave 43 presentations to an audience of 1,934 people. This represents an average of about 45 participants at each event. There were five presentations related to ergonomics.

There were three seminars in person and virtually. The topics were:  excavations; mobile elevating work platforms; and mental health. There were 254 people in attendance.

### Publications

We published *Safety Lines* in October and January. This is our online, quarterly newsletter.

### Partnerships

Currently, there are 15 partnership sites. There is one partnership meeting each quarter.

### Compliance assistance

During the period, MNOSHA Compliance handled a total of 2,014 phone calls. It also responded to 1,373 written requests for information.

## MNOSHA Compliance safety update:  Matt Lucas

### Inspections

Through the second quarter of federal-fiscal-year 2024 (Oct. 1, 2023, through March 31, 2024), MNOSHA Compliance:

- investigated 14 (12 at this time last year) fatalities and nine serious injuries that occurred under MNOSHA jurisdiction;
- conducted 482 inspections – 396 safety and 86 health;
- handled 121 total complaint inspections (181 at this tme last year and 130 the year before) – the response time to these complaints was 3.7 (4.07 at this time last year);
- achieved citation issuance time of 53 days for safety and 57 days for health.
    - Average number of violations per inspection was 2.27 (2.07 at this time last year).
    - There were four willful citations and 10 repeat citations issued  (zero and two, respectively, at this time last year).

### Informal and case file review changes

- MNOSHA Compliance implemented process changes to incorporate three compliance supervisors to perform informal conferences and case file review. This aligns MNOSHA with other state plans and federal OSHA as we work to increase quality inspection reports and timeliness amid a large influx of newly hired investigators. With staff changes, MNOSHA Compliance replaced two long-term principal safety investigators.
- MNOSHA now has a complement of four principal safety investigators and three compliance supervisors conducting file review and informal conferences, with two additional training principals also conducting file review.
- MNOSHA is the process of adopting its emphasis inspections as outlined in the current strategic plan. Currently, MNOSHA has completed its scheduled inspections for this federal fiscal-year in the public sector, grain industry and health care industry, and continues working through its remaining emphasis areas in the foundry, meatpacking, process safety management and agriculture industries.

# MNOSHA Compliance health and program administration update: James Krueger

## Rulemaking, legislative changes

New maximum penalties are in effect and will be updated again Oct. 1, 2024, and published in the *State Register* Oct. 1, 2024.

- Adopted the injury and reporting requirements for employers with more than 100 employees.
- On May 20, 2024, federal OSHA adopted an update to the hazard communication standard to align with a newer edition of the United Nations' "Globally Harmonized System for the Classification and Labeling of Chemicals." MNOSHA plans to adopt this as written to remain harmonized with federal OSHA and globally. This adoption takes effect July 19, 2024, for federal OSHA; MNOSHA has six months to complete the rulemaking process. MNOSHA's proposal and adoption will be identified in the *State Register* and on MNOSHA's rulemaking webpage.
- Warehouse distribution worker safety (see dli.mn.gov/about-department/rulemaking/mnosha-compliance-warehouse-workers):
  - effective Aug. 1, 2023;
  - applies to employers with 250 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in the state;
  - website information explains who is covered, determined by North American Industry Classification System (NAICS) code, safety committee responsibilities and frequently asked questions.
- Ergonomics program:
  - effective Jan. 1, 2024;
  - applies to warehouse distribution center employers, meatpacking or poultry processing sites with 100 or more employees, and health care facilities;
  - provide training materials and other information are available online.
    - During the current federal fiscal-year, MNOSHA Compliance has conducted inspections of the covered industries. Such inspections will continue for the duration of the federal fiscal-year. MNOSHA Compliance has also been active in producing and updating resource documents, with additional documents added as needed.
- For the current state fiscal-year, MNOSHA was provided five full-time-equivalent (FTE) employees; for the next state fiscal-year, MNOSHA will have seven FTE employees, with ongoing funding through 2027.
- Following the Minnesota legislative session that concluded May 19, 2024, MNOSHA saw the following proposed policy and rule changes proposed in a pair of bills recommended by House and Senate Committees.
  - S.F 3852 included updates to Minnesota Statutes 182.6526, which will take effect Aug. 1, 2024. The updates included technical changes to the statute involving the definition of an employee, terms concerning investigative data, and definitions concerning health care, warehousing and meatpacking facilities.
  - S.F. 3852 also introduced requirements for surgical smoke evacuation system policies, which will require a health care employer to implement policies to prevent exposure to surgical smoke by use of a smoke evacuation system during any surgical procedure that is likely to generate surgical smoke. These requirements would take effect Jan. 1, 2025.

- H.F. 5247 directs MNOSHA to conduct rulemaking to lower the blood lead level at which workers must be removed from exposure to lead. Also included would be changes to the blood lead level at which an employee can return to a position with exposure to lead. More information about this proposed rulemaking will be posted as updates occur.

## MNOSHA Compliance enforcement update: James Krueger

### Inspections

- In accordance with Minn. Stat. 182.66, subdivision 4, citations are public 20 days after the employer receives them. We have seen an increase in media requests and media articles.
- In accordance with new maximum penalties, we are seeing an increase in informal conferences.
- OSHA Express manual items:
  - general functions manual is out;
  - inspection manual is out for review;
  - working on discrimination case management system and what is transferred to federal OSHA; and
  - interface between OSHA Express and the state financial system.
- Hard hats to safety helmets: We have received safety helmets with chin straps. These exceed the MNOSHA standards and we are starting to see them be mandated by employers.

### Federal OSHA

- On May 30, 2024, federal OSHA notified MNOSHA that it has a revised a budget level decrease for federal-fiscal-year 2024, from $4,802,000 to $4,629,000. This is a $173,000 ongoing cut, eight months into the fiscal year. This is a 3.61% decrease to state plans. This will likely force a few state plans to take actions such as reductions in force, furloughs, not filling vacancies and reducing services offered to small businesses to help ensure worker safety and health. This does not apply to MNOSHA, but – ongoing – is a cut of two positions.
- Our state-plan association (Occupational Safety and Health State Plan Association, OSHAPA) is reaching out to bring attention to this. We have been informed federal OSHA faces a shortfall due to staffing. State plans, covering 49% of the nation's workforce, represent only 29% of OSHA's budget. Yet, state plans are now saddled with federal OSHA's overspending budget shortfall.
- This reduction applies to federal-fiscal-year 2025. MNOSHA is currently working on its federal-fiscal-year 2025 grant and anticipated adding about 10 FTE employees during the next year:
  - two to the ergonomics and warehouse team;
  - a temporary position for lead rulemaking; and
  - team leads to aid with informals.
- Federal-fiscal-year 2023 Federal Annual Monitoring Evaluation (FAME) report: The audit was the week of Feb. 5, 2024, and the report should be publicly available shortly on the federal OSAHA website. The MNOSHA State OSHA Annual Report (SOAR) is available at dli.mn.gov/sites/default/files/pdf/soar_ffy23.pdf.

### Staffing

- We are continuing to focus on increasing the field staff and mentoring and building out for warehousing and ergonomics.

- MNOSHA has about 50% of our field investigative staff with fewer than two years experience.
- Federal-fiscal-year 2023 (Oct. 1, 2022, through Sept. 30, 2023) – 13 new hires.
- First quarter of federal-fiscal-year 2024 (Oct. 1 through Dec. 31, 2023) – three new hires.
- Second quarter of federal-fiscal-year 2024 (Jan. 1 through March 31, 2024) – four new hires.

### OSHSPA, federal meeting

- Attended an OSHSPA state-plan association meeting and a federal OSHA meeting May 14 and 15, 2024, in Galloway, New Jersey. Major discussion about the FAME process, training of safety and health investigators, updated SAMMS measurement and the federal OSHA emergency response standard.
- Both OSHSPA and federal OSHA meet three times each year. The next meeting is Boston, Sept. 17 and 18, 2024. Ron Anderson is attending.
- The 2022 OSHSPA *GRASSROOTS* publication is online at dli.mn.gov/sites/default/files/pdf/grassroots_2022.pdf. We have completed and submitted the 2023 information and should see copies shortly.

## Minnesota Safety Council update:  Paul Aasen

## Occupational Safety and Health Advisory Council members updates

## Adjournment:  Paul Aasen, chairman

- Roll call for adjournment by Gretchen Longbehn, executive secretary