DEPARTMENT OF LABOR AND INDUSTRY

Minutes: Occupational Safety and Health Advisory Council

Date: Friday, Dec. 6, 2024
Time: 10 a.m. to noon
Location: In person in the Department of Labor and Industry's (DLI's) Blue Earth Innovation and Conference Room and via Webex

Call to order: Paul Aasen, chairman

- Roll call by Gretchen Longbehn, executive secretary
- Approval of the Dec. 6, 2024, meeting agenda
  - Meeting agenda has been approved
- Approval of the June 21, 2024, meeting minutes
  - Meeting minutes have been approved
- Welcome and introductions

DLI announcements and updates: Nicole Blissenbach, commissioner

- Update about the transportation network company (TNC) law (Uber and Lyft law) that set minimum compensation for drivers, some pay transparency, insurance requirements and deactivation protections. There has been a news release and the department is working with both companies and drivers to ensure it is running smoothly.
- DLI entered a settlement agreement with Smithfield Foods.
  - This resulted in the largest child labor penalty the department has ever collected, which was $2 million.
    - The business had several kids working in the hazardous positions.
- Minnesota OSHA (MNOSHA) news releases have been created for Wayne Transports and Lake Aquatics.
- The department is preparing for the legislative session; it is a budget year.

Federal OSHA update: Mitzy Wright

Mitzy Wright discussed fatalities under federal OSHA's jurisdiction in Region V for fiscal-year 2023 compared to fiscal-year 2024.

Possible federal OSHA cuts

- Most expect federal OSHA to pursue a broadly deregulatory and employer-friendly agenda.
- It is likely to de-prioritize enforcement and halt new and ongoing rulemaking and regulations. Most likely it will cut down on the number of national, regional and local emphasis programs by eliminating some and allowing others to lapse without renewal.
- Federal OSHA may prioritize compliance assistance, scale back the use of news releases to employers and decrease the amount of information on its website.

DRAFT

MNOSHA Workplace Safety Consultation update: Ryan Nosan

Consultation visits

- 847 total visits: 800 private sector and 47 public sector
- 93 formal trainings
- 65 follow-up visits
- 650 informal trainings (during on-site visits)

Hazards identified

- 2,821 instances of observed hazards: 2,509 serious; 289 other-than-serious; 11 regulatory (such as recordkeeping); and 12 imminent dangers

Total interventions

- 238 interventions
  - Formal training, Minnesota STAR (MNSTAR) Program activities and technical assistance
  - Impacting 4,494 establishments and 14,185 employees attended

Other year-end highlights

- Completed 30 safety assessments for the Youth Skills Training program
- Completed 30 workplace violence prevention interventions with different stakeholders and had 1,376 attendees
- Staffed booths at multiple events, including:
  - the AGC of Minnesota conference;
  - the Minnesota Muslim Convention;
  - the Hmong Resource Fair;
  - the Care Providers of Minnesota conference;
  - the Leading Age conference;
  - the Minnesota Dental Association;
  - the Upper Midwest Agricultural Safety and Health Conference (Farm Fest);
  - the Minnesota Safety Council's Regional Safety Day events in Brainerd, Duluth and Mankato;
  - the Minnesota Safety Conference;
  - the North Star Expo; and
  - the Hospitality Minnesota Expo.
- Continue to provide technical assistance through interventions and formal training sessions about different topics to individual stakeholders throughout the state
- One-year anniversary (Oct. 2, 2024) of successfully working in the new OSHA Express system
- Marketing efforts continue with industries identified as part of the strategic plan and to promote the ergonomics safety grant program

Alliance program

- Electrical Association: Ongoing newsletter articles submitted.

    - In fiscal-year 2024, articles include a recap of the legislative session, heat stress and falls in construction.
    - Continue to participate in the MEA Education Committee meetings.
- Mexican Consulate: MNOSHA Workplace Safety Consultation completed 10 presentations as part of its alliance with the consulate.
    - The alliance was renewed with the group July 15, 2024.
- Initiated a new alliance with the Grain Operations Safety Professionals group in October 2023.
    - This resulted in 12 consultation visits and a handful of presentation and events.
- Did not renew the alliance with the Minnesota Dental Association. MNOSHA Workplace Safety Consultation continues to support the group and its stakeholders, but the official alliance expired in fiscal-year 2024.

Minnesota Safety and Health Achievement Recognition Program (MNSHARP)

- Fiscal-year 2024 ended with three new MNSHARP participants and seven new pre-MNSHARP participants. Of the three new MNSHARP participants, two were general industry sites and one was a construction site. The seven new pre-MNSHARP participants consisted of two general industry sites and five construction sites. In addition, nine general industry sites were recertified as MNSHARP participants.
- Ten MNSHARP construction projects were completed in the federal fiscal year.
- Three MNSHARP general industry sites withdrew.
- At the end of fiscal-year 2024, there were 35 total MNSHARP participants.

Minnesota STAR (MNSTAR) Program (Minnesota's voluntary protection program)

- Fiscal-year 2024 ended with 36 full MNSTAR Program worksites. Two new sites were granted full MNSTAR Program status, exceeding the federal-fiscal-year 2024 goal. Two companies successfully achieved full recertification as MNSTAR Program sites, meeting the fiscal-year 2024 goal. One site withdrew from the MNSTAR Program.
- All certified MNSTAR Program and MNSHARP companies are available on the DLI website.

Safety grants (state-fiscal-year 2024)

- Two hundred forty-four total grant applications were received and reviewed.
- More than $700,000 was awarded to 130 applicants.

Ergonomics safety grants (since July 1, 2023)

- Seventy-two ergonomics grant applications were received and reviewed (as of this week): 62 health care; two meatpacking; and eight warehousing.
- Of the applications received, two have been denied.
- Approximately $555,000 has been awarded (MNOSHA Workplace Safety Consultation has not completed the award amounts for the cycle that just ended).
    - Funds are available until June 30, 2026.
- Outreach to the covered industries:
    - Mailed more than 600 letters using the ITA responder list to the covered industries.
    - Thanked them for reporting, as well as promoting, the ergonomics safety grants and MNOSHA Workplace Safety Consultation services.

MNOSHA Workplace Safety Consultation, federal OSHA interaction

- Had an on-site audit with federal OSHA in August 2024.
  - The federal OSHA representatives spent one week on-site, reviewing more than 50 files to ensure quality and consistency.
- As mentioned previously, MNOSHA Workplace Safety Consultation was informed in May that state plans and consultation programs would face budget cuts.
  - This specific program was reduced by $41,000 for the remainder of federal-fiscal-year 2024; the reduction continues into fiscal-year 2025.
  - Across all consultation programs, this is an approximate $2.3 million reduction.
- Submitted an end-of-year report (the Consultation Annual Program Report or CAPR) to federal OSHA on Nov. 27, 2024.

Staffing

- Hiring, succession recap:
  - two retirements of long-time consultants (KH and PK);
  - one employee left for another state agency (AG);
  - one employee left for the private sector (KC);
  - one supervisor went laterally to MNOSHA Compliance (RB); and
  - 13 new staff members have been hired in the past five years.
- There is one open industrial hygienist position for the MNSHARP Program general-industry group.

MNOSHA Compliance training and outreach update: Nancy Zentgraf

MNOSHA Compliance training activities, federal-fiscal-year 2024

MNOSHA Compliance has focused on training staff members for the past two years. In federal-fiscal-year 2023, five industrial hygienists and eight safety investigators were hired. This year, in federal-fiscal-year 2024, four industrial hygienists and nine safety investigators were hired. That is a total of 26 new investigative staff members in the past two years.

MNOSHA Compliance has added one supervisor directing ergonomics and one supervisor directing training. We had one training officer retire and she was replaced with a new training officer. One industrial hygienist 3 training officer has been added; she is implementing new formal training about sampling methods, sampling equipment and sampling protocols. MNOSHA Compliance has been responsive to filling positions from staff attrition, retirements and opportunities provided in MNOSHA Workplace Safety Consultation.

MNOSHA Compliance continues to provide in-house training of standards, manuals, inspection techniques and directives. We use a model of classroom training and field training to enhance knowledge retention. Our training is further enhanced by sending staff members to the OSHA Training Institute (OTI). MNOSHA Compliance brought two OTI classes to Minnesota in federal-fiscal-year 2024. As new staff members have been hired, changes are made to the classroom training to include mock inspections, the inspection checklist, lockout/tagout, and industrial hygiene protocols, sampling methods and the use of the sampling equipment.

We have many experienced and extremely dedicated staff members, including many with more than 10 years of experience. Currently, we have three staff members who are certified safety professionals (CSPs), three certified

industrial hygienists (CIHs), one professional engineer (PE), one certified professional ergonomist (CPE) and one staff member with a Ph.D. in industrial hygiene.

We have also made changes to our Discrimination team. We have hired a full-time investigator position to cover intakes for the Discrimination team. This was previously a temporary position. Having a designated full-time position handling intakes has increased efficiency for the team by increasing continuity and reducing interruption, enabling investigators to focus their attention at closing open cases as soon as possible. The Discrimination team now has four investigators and has filled a supervisor position for the team.

Outreach activities

In federal-fiscal-year 2024, MNOSHA Compliance conducted 80 presentations to 3,558 participants. We continue to work with the Associated General Contractors of Minnesota, Associated Building Contractors, American Society of Safety Professionals and the Minnesota Safety Council. We conducted five Construction Seminars last year; these were hybrid – both in person and virtual.

Since joining MNOSHA Compliance, our ergonomics supervisor has had numerous opportunities to present to stakeholders about a variety of topics. During the build up to the effective date of Minnesota Statutes 182.677, Ergonomics, and Minn. Stat. 182.6526, Warehouse distribution worker safety, three webinars were conducted about these statutes. Three articles were written for the MNOSHA quarterly newsletter *Safety Lines* about the impending effective dates of the statutes and how they will be enforced. The ergonomics supervisor also presented at the Care Providers conference and the Leading Age conference, giving an update about MNOSHA in the long-term-care environment. She was invited to speak at the international Human Factors and Ergonomics Society (HFES) ASPIRE meeting in Phoenix, Arizona, with representatives from federal OSHA and Washington state Department of Labor and Industries, about the status of ergonomics statues in the United States. A paper, “Update on Ergonomics Standards in the United States” was prepared about this topic and published in the proceedings of the 68th HFES International Meeting.

MNOSHA Compliance safety update: Matt Lucas

Inspections

- Through the fourth quarter of federal-fiscal-year 2024 (Oct. 1, 2023, through Sept. 30, 2024), MNOSHA Compliance:
  - investigated 30 fatalities and 21 serious injuries that occurred under MNOSHA jurisdiction;
  - conducted 1,144 inspections with 2,813 hazards identified, 70% of them serious;
  - handled 268 total complaint inspections with a response time of 3.23 days;
  - issued citations within 43 days (safety) and 54 days (health);
  - decreased the number of days to initiate a complaint response inspections from four days to 3.2 days;
  - increased the percentage of public-sector inspections 3% to 4.8%;
  - reduced the inspection in-compliance percentage from 43% to 35%;
  - increaded the average number of serious, willful and repeat violations from 2.07 to 2.45 per inspection; and
  - increased the average current penalties per serious violation from $1,223.06 to $2,286.50.

Health, program administration update: Ron Anderson

- Discussed the requirements for surgical smoke ventilations systems that went into effect Jan. 1
- Discussed the hazard communication standard that was updated by federal OSHA this past summer
- Discussed how we have been directed by the Legislature to conduct rulemaking regarding blood lead levels and reducing the blood lead level at which an employee would be moved from exposure to lead and reducing the level at which they can return to exposure to lead
  - We have organized a group to discuss this further.
- Discussed that DLI has done some additional recordkeeping seminars
  - There has been a huge interest in ergonomics and we have done a lot of outreach. We just completed our first fiscal year of ergonomics enforcement.

MNOSHA Compliance enforcement update: James Krueger

Inspections

- News releases:
  - December – commercial diving standard violated when pulling weeds, $730,369;
  - August – confined space, $621,000;
  - Minnesota workplace injury and illness rate at new all-time low, 2.9 OSHA-recordable, nonfatal workplace injuries and illnesses per 100 full-time-equivalent employees; and
  - doing warehouse distribution, $10,500, ergonomics and new warehouse distribution safety law workplace violence citations in a school and health care facility involving hospitals.

Federal OSHA

- On May 30, 2024, federal OSHA notified us we have a revised budget level 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 and forced a few state plans to take the actions federal OSHA was not willing to do, such as furloughs and not filling vacancies.
- Federal Annual Monitoring Evaluation (FAME) report for federal-fiscal-year 2023 is available at osha.gov/stateplans/famereport/MN.
- The audit for federal-fiscal-year 2023 was the week of Feb. 5, 2024. The results became public online in July and MNOSHA had no findings. A total of 186 safety, health and whistleblower protection case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct. 1, 2022, through Sept. 30, 2023). The selected population included:
  - 20 fatality inspection case files;
  - 17 complaint and referral inspection case files;
  - 48 programmed and unprogrammed inspection case files;
  - 15 phone or fax complaint and referral files;
  - 25 whistleblower investigation case files; and
  - 61 screened and closed whistleblower case files.
- The State OSHA Annual Report (SOAR) audit for federal-fiscal-year 2023 is also linked to our website and the response to federal OSHA from our commissioner.
- We have completed the draft SOAR for 2024; it is being reviewed by federal OSHA.

Occupational Safety and Health State Plan Association, federal meeting

- The Occupational Safety and Health State Plan Association (OSHSPA) meeting and the federal OSHA and State OSHA Lawyers Organization (SOLO) meeting is Feb. 25 through 27, 2024, in Long Beach, California. Minnesota will be sending two staff members and two attorneys.
- Both OSHSPA and federal OSHA meet three times each year.
- The 2023 OSHSPA *GRASSROOTS* publication is online at dli.mn.gov/sites/default/files/pdf/grassroots_2022.pdf.

Possible federal OSHA cuts

Try again to eliminate Susan Harwood Training Grants – $12 million

In the first Trump administration, OSHA also operated without a senate-confirmed assistant secretary for all the president-elect's first four years in office. This is the first time this has ever occurred.

Federal OSHA may cut federal inspectors. In 2021, 750 inspectors were cut; and in 2023, they had 1,078. The goal was to double that number to 1,500 in 2024.

State of Minnnesota cut

- Minnesota would stop hiring and maintain current inspections, rulemaking, outreach, etc.
- No layoffs would be anticipated.

Minnesota Safety Council update: Paul Aasen

Paul Aasen discussed what a recovery-friendly workplace is. The Minnesota Safety Council can provide training to companies about this topic.

Occupational Safety and Health Advisory Council member updates

Adjournment: Paul Aasen, chairman

- Roll call for adjournment by Gretchen Longbehn, executive secretary
    - The meeting was adjourned at 11:50 a.m.