

**Occupational Safety and Health Advisory Council
Minutes
May 1, 2009**

Members Present:

Erick Ajax
Melanie Allen
Carol Bufton
Harvey Burski
Fay Chawla
Bill Stuart
Dean Tharp
Daryl Tindle

Staff:

David Berry
Julie Klejewski
Jim Krueger
Patricia Todd
K. Hon Siow

Members Excused:

Mike Hawthorne
Mike Mueller
Greg Rindal
Kathy Smith

Visitors:

Gary Thaden, NECA/MECA
Mark Hysell, Federal OSHA

The meeting was called to order at 10:05 a.m., by chairperson Carol Bufton. Members and staff introduced themselves.

Tharp brought forth a concern regarding recent hearings held at the House and Senate and asked if it could be an agenda item either at this meeting or a future meeting. Chair Bufton added it to this meeting agenda under #IV Business.

Stuart made a motion to approve the agenda including this addition; seconded by Ajax; all voted in favor and the motion passed.

Allen made a motion to accept the February 6, 2009 minutes as printed; seconded by Burski, all voted in favor and the motion passed.

I. Assistant Commissioner's Update – Patricia Todd

Assistant Commissioner Todd reported that the legislative session was going well. Overall there is nothing related to OSHA. She announced that the department has updated its Website. She also announced that Jim Krueger has been appointed as the Director of MNOSHA Compliance program effective April 1, 2009, and welcomed him in that new role.

II. Federal OSHA Update – Jim Krueger on behalf of Mark Hysell

OSHA Up-Date & Enforcement News:

1. U.S. Secretary of Labor Hilda L. Solis announces convening of rulemaking panel on worker exposure to food flavorings containing diacetyl.

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

- OSHA will convene a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel May 5 on a draft proposed rule on occupational exposure to diacetyl and food flavorings containing diacetyl
- The SBREFA allows for small businesses that may be affected by a proposed rule to review the proposal and provide comments before an agency publishes it in the *Federal Register*
- The goal of the process is to develop recommendations designed to assure accuracy of the supporting analyses and to identify alternatives that may reduce the burden on small businesses
- Once OSHA convenes the SBREFA process, the panel will meet with the SERs to obtain their recommendations. The panel must complete the process and submit its final report within 60 days after being convened

2. U.S. Department of Labor's OSHA announces rulemaking on combustible dust hazards

- OSHA will issue an Advanced Notice of Proposed Rulemaking and convene related stakeholder meetings to evaluate possible regulatory methods, and request data and comments on issues related to combustible dust such as hazard recognition, assessment, communication, defining combustible dust and other concerns
- Since 1980, more than 130 workers have been killed and more than 780 injured in combustible dust explosions. These include 14 people who were killed in a dust explosion Feb. 7, 2008, at an Imperial Sugar Co. plant in Georgia and three workers who were burned in April 2009 in an Illinois pet food plant dust explosion
- Combustible dusts are solids finely ground into fine particles, fibers, chips, chunks or flakes that can cause a fire or explosion when suspended in air under certain conditions
- Types of dusts include metal (aluminum and magnesium), wood, plastic or rubber, coal, flour, sugar and paper, among others
- In 2006, the U.S. Chemical Safety Board (CSB) recommended that OSHA issue a combustible dust standard
- OSHA received additional support for a combustible dust standard from the CSB during a congressional hearing in 2008 when the board said a new standard, combined with enforcement and education, could save workers' lives

3. Jordan Barab joined OSHA as Deputy Assistant Secretary of Labor for Occupational Safety and Health as well as Acting Assistant Secretary on April 13, 2009

- He previously served as Special Assistant to the Assistant Secretary of Labor for OSHA from 1998 to 2001, when he helped the Agency to promulgate the ergonomics workplace safety and health standard that was repealed by Congress in March 2001
- He holds a master's degree from The Johns Hopkins University and an undergraduate degree from Claremont McKenna College

Closer to Home:

1. The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law by President Obama on February 17, 2009

- The Act is an extraordinary response to a crisis unlike any since the Great Depression, and includes measures to modernize our nation's infrastructure, enhance energy independence, expand educational opportunities, preserve and improve affordable health care, provide tax relief, and protect those in greatest need
- OSHA's role is to ensure that worker protection laws are enforced as recovery infrastructure investments are carried out
- OSHA carries out this responsibility through enforcement of its standards, providing free consultation services to small employers, and outreach to employees and employers regarding hazard awareness and worker protection in affected industries and job classifications

- OSHA will rely heavily on new and existing [Local Emphasis Programs \(LEPs\)](#) to protect workers on ARRA-related projects
- State Plan States will also target ARRA-related projects
- Beginning in May 2009, OSHA will begin collecting injury and illness data from approximately 20,000 construction firms in order to focus its resources on the areas of greatest need
- This is an expansion of OSHA's Data Initiative, which collects injury and illness data for general industry
- Three new Local Emphasis Program (LEPs) are effective as of today
 - LEP for construction, maintenance, and demolition work on roadways, bridges, airport runways, and airport terminals funded by the American Recovery and Reinvestment Act (ARRA) of 2009
 - LEP for ARRA funded construction at Federal facilities
 - LEP for ARRA funded energy related projects
- Federal enforcement office's in our region, region V will begin inspections under these inspection programs effective today, May 1, 2009

III. Staff Reports: Compliance – James Krueger

INSPECTIONS

- Last Quarter 2009 (1/1/09-3/31/09)
 - Investigated 3 fatalities in last quarter
 - Conducted 700 inspections, 121 were complaints
- There were also 2 trenching fatalities just within the past 3 weeks

CONSTRUCTION BREAKFAST

- Jan. 20, 2009, 85 attended Fall Protection General Applications
- Mar. 17, 2009, Residential Fall Hazard Solutions

OUTREACH

- Attend many Safety Days throughout the state – most notably for AGC in the Metro area
- Many staff will be attending upcoming MN Safety Council's annual conference

EMPLOYEE TRAINING

- Two classes will be held in Minnesota for staff versus traveling to the OTI
 - 1 is on fall protection in July, and 1 on scaffold in Sept.
 - We open these classes to OSHA employees at neighboring states
- Completed defensive driving training for all compliance staff
- Completed HAZWOPER refresher training for those staff that needed it

LEGISLATIVE

- Clarifications in regards to electrical standards – published by Federal OSHA, Minnesota adopted them in the last quarter. Minnesota also adopted the marine terminals, tandem lifts-final rule published by Fed OSHA, and clarifications to PPE

OSHSPA

- Alden Hoffman attended the OSHSPA Winter Conference in South Carolina Feb 9-11, 2009
- Jim Krueger will be attending next meeting in Portland, Oregon in June
- Currently working on Grassroots report, coming out this summer

HEALTH

- Alden Hoffman is our point contact for the H1N1 flu. He has been involved in the many different meetings that have occurred. Currently he is involved in the state emergency management conference division meetings, twice a week. He also handles our Federal conference calls and is also our point contact for Federal, State level, as well as for the department.
- We will provide information on our Website as links to the appropriate source, such as Dept of Health, CDC, etc.

Staff Reports: Consultation – Hon Siow for James Collins

Human Resources Management

- One vacant Ergonomics Consultant (Industrial Hygienist 3) position in St. Paul Office. This position was posted.
- One vacant Safety Consultant position in Duluth. This position was posted.

Federal 21(d) Consultation Budget

- FFY 2009 is being funded with an increase of \$40,000.

Federal year productivity (October 1, 2008 – March 31, 2009)

- Initial visits = 407
- Follow-ups = 70
- Training sessions = 92
- Employers and Employees Trained = 2836
- Hazards = 1907
- Interventions = 141

Alliances

- **Hennepin Technical College (Eden Prairie & Brooklyn Park)** – completed 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 11th year the construction team has participated in their seminars.
- **Preventing Combustible Dust Explosion** – conducted two seminars in 2009 on Minnesota OSHA combustible dust national emphasis program. We had 73 participants for the two seminars that were held on March 25 and April 15. This training was presented by Minnesota OSHA Compliance, Minnesota OSHA Consultation and BS & B Safety Systems.

MNSTAR

- Trident Seafoods Corp. in Motley, MNSTAR effective February 6, 2009.

MNSTAR (Re-certifications)

- One recertification evaluation completed in April, 2009 (Marvin Windows).
- Four more employers will receive recertification evaluations in 2009.

MNSTAR (change of ownership)

- International Paper in White Bear Lake, verified the new owner has an effective safety and health management system and VPP commitment – 2/2/09 to 2/3/09.

MNSTAR (pending applications)

- Marathon Oil, St. Paul Park
- MCP Foods, New Ulm
- Pioneer Hi-Bred, Jackson
- Mankato Schools, Mankato

MNSHARP (New Site)

- Timber Roots – Dover, MNSHARP effective 1/27/09.
- Opus Northwest Construction, Cargill Project, MNSHARP effective 2/17/09

MNSHARP (Recertification)

- Riverwood Healthcare Center, Aitkin, MNSHARP effective 2/27/09.
- Timber Roots, Wadena, MNSHARP effective 2/7/09
- Minnesota Freezer Warehouse Co, Austin, MNSHARP effective 3/9/09

PRE-MNSHARP

- Kraus Anderson - U of M Children's Hospital
- Knutson - Minneapolis Children's Hospital
- Duke - West End Project
- Pollux Manufacturing

IV. Business –Carol Bufton

- Workers' Compensation System Report - 2007

Bufton introduced David Berry who works in the Policy Development, Research and Statistics unit at DLI. He gave a power point presentation on the Workers' Compensation System Report – 2007. The full report, as well as archived editions, are available online at <http://www.dli.mn.gov/RS/WcSystemReport.asp>.

- Brainstorm ways to integrate safety & health and workers' compensation

Bufton opened the floor for ideas. After much discussion, below is a summary of ideas:

1. Emphasis the need for injury prevention.
2. Encourage and explain the importance of near miss investigations.
3. Train employers on the link between injuries, workers' compensation and profitability.
4. Compare actual workers' compensation injury data with 300 log during OSHA visits/inspections.
5. Provide real life examples on how improved safety and health impacted overall profitability of an employer.
6. Provide awards/incentives to encourage employers to invest in safety and health improvements.
7. Provide information to employers during visits/inspections, their overall industries workers' compensation rates and most common injuries.
8. Joint communication and training from compliance and consultation.

- Arthur E. McCauley, Jr. Award

Krueger reviewed purpose of the award. It is presented on behalf of the department, MNOSHA and the advisory council. The recipient is a person who has had a lead role in safety and health within the State of MN, and can effectively handle complex or unusual occupational safety and health concerns. There was a nomination this year for Don Voss, a former MNOSHA employee who passed away this past year. Don was recognized as the voice for MNOSHA. In 2002, he took the position of Information Officer, which meant he was the #1 person taking calls from both employers and employees in the state, he was very professional and handled numerous complex situations with ease.

Krueger asked for the council's approval to present the Arthur E. McCauley, Jr. award to Don Voss's family.

Tharp motioned to accept Don Voss as recipient of the Arthur E. McCauley, Jr. award; 2nd by Ajax. All voted in favor and the motion passed.

- Hearings

Tharp and Tindle felt it was important that the advisory council be informed from the agency's perspective what is happening in regards to the February 25th House and Senate joint committee hearing that investigated DLI and some alarming allegations in regards to the MNSTAR program.

Todd informed members that the agency was unaware of the intent of the joint committee hearing until they arrived. Upon arrival, the agency was accused by two former employees of wrong doing. After quitting, these employees unsuccessfully attempted to bring suit against the agency, herself, and the former director. Upon agency approval, Federal OSHA conducted an investigation on the unsubstantiated allegations and found the agency to be 100% compliant. They did informally request some minor procedure changes that the agency agreed to.

V. Future Agenda Items

- 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

Stuart made a motion to adjourn the meeting at 11:48 a.m., seconded by Burski, all voted in favor and motion passed.

Respectfully Submitted,

Julie A. Klejewski

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