



MNOSHA Instruction **STD 5-0.2D**

January 19, 2021

SUBJECT: Joint Labor-Management Safety Committees

Purpose:

To provide guidelines for determining which employers must comply with Minnesota Statutes §182.676, "Safety Committees" and Minnesota Rule Chapter 5208.

Scope:

This instruction applies MNOSHA-wide.

Cancellation:

This directive supersedes STD 5-0.2 dated August 29, 2017.

Background:

During the 1995 legislative session, the requirement for safety committees was transferred from the Workers' Compensation statute (Minn. Stat. Chapter 176) to the OSHA statute (Minn. Stat. Chapter 182). The statute (Minn. Stat. §182.676) requires all employers with more than 25 employees to establish and administer a joint labor-management safety committee. Employers with 25 or fewer employees must establish a joint labor-management safety committee if the employer has a lost workday cases incidence rate in the top ten percent of all rates for employers in the same industry or they have a pure premium rate as reported by the Workers' Compensation Rating Association in the top 25 percent of premium rates for all classes. In 1999 Minn. Rule 5208 Accident and Injury Reduction Program was promulgated to clarify Minn. Stat. §182.676.

References:

MNOSHA Instruction CPL 2-0.135, "Recordkeeping Policies and Procedures."

ACTION:

The requirement for a joint labor-management safety committee will be enforced as outlined below:

A. Safety Committee Criteria. A joint labor-management safety committee must:

1. Hold regularly scheduled meetings unless otherwise provided for in a collective bargaining agreement; and
2. Have its employee members selected by employees.

The statute requires covered employers to "establish and administer" a joint labor-management safety committee that meets the above criteria.

B. Citation Policy.

1. A joint labor-management safety committee is required in a workplace that has more than 25 employees. During the inspection, the OSHI should ask an employee or employee representative how the safety committee is working. If there are no concerns about the safety committee, the OSHI need not inquire further. If there are concerns, the OSHI should determine whether the safety committee was established under a collective bargaining agreement or AWAIR plan. If so, the employer is exempt from the rule (Minn. Rule 5208.0070). If the employer is not exempt from the rules, the OSHI would determine if any of the rule provisions apply to the concerns raised by the employee and cite the employer accordingly.
 - a. If the company does not have a joint labor-management safety committee, cite Minn. Stat. §182.676.
 - b. Refer to Minn. Rule 5208.0020 for guidance if an employer operates at more than one location.
 - c. Refer to Minn. Rule 5208.0030 for guidance on membership.
 - d. Refer to Minn. Rule 5208.0070 for guidance on acceptance of alternative forms of the committee.
2. A joint labor-management safety committee is required in a workplace that has 25 or fewer employees if the employer has a lost workday cases incidence rate in the top ten percent of all rates for employers in the same industry or the employer has the greatest portion of the payroll for the employer has a pure premium rate as reported by the Workers' Compensation Rating Association in the top 25 percent of premium rates for all classes, Appendix A is this workers compensation premium classification list. Appendix A should be updated every five years at the same time as MN Stat 182.653 subd. 8 and 9, AWAIR. If the company is in the top 25 percent and has less than 25 employees but does not have a joint labor-management safety committee, cite Minn. Stat. §182.676.

The total number of lost day workday injury and illness (LWD) case rate is the (number of lost days due to injury/illness (annual) x 200,000) / Total number of hours worked.) See Appendix B for how to calculate employers last available LWD case rate. The LWD case rate must be compared to the five or six-digit North American Industrial Classification System (NAICS) code for the industry in which the applicant is classified when the NAICS system is adopted. The BLS publishes a NAICS industry supplemental news releases, https://www.bls.gov/iif/oshsum.htm#19Summary_News_Release; use SNR03, highest rates for cases with days away from work - Injuries and illnesses - 2019 ([XLSX](#)). The comparison of the employer will be made on the last year of national average available. If the NAICS is listed in the table in appendix B and the employer's incidence rate is equal to or greater than the incidence rate in the table a citation shall be issued if a safety committee is not established.

Note: in accordance with MNOSHA Instruction CPL 2-0.135 employers who had ten or fewer employees at all times during the last calendar year are exempt from the recordkeeping requirements (§Part 1904.1) and this calculation will not be possible.

C. Violation Classification and Penalties.

In accordance with Minn. Stat. §182.676, subd. (d), violations will be classified as Serious and should be classified for severity and probability per FCM Chapter 6. A citation issued for lack of a safety committee will have an unadjusted penalty of \$1,000. The proposed penalty will be adjusted for good faith, size, and history and any appropriate penalty multiplier will be applied. The minimum adjusted penalty will be \$100.

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For the MNOSHA Management Team

Distribution: OSHA Compliance and WSC Director

Appendix A: Employer List [Employers with a pure premium rate as reported by the Workers' Compensation Rating Association in the top 25 percent of premium rates for all classes.]

Appendix B: Calculating employer's last available LWD case rate.

NOTICE: Minnesota OSHA Directives are used exclusively by MNOSHA personnel to assist in the administration of the OSHA program and in the proper interpretation and application of occupational safety and health

statutes, regulations, and standards. They are not legally binding declarations and they are subject to revision or deletion at any time without notice.

Appendix A: This file contains the Minnesota 1-1-2017 advisory pure premium base rates and corresponding rating values.

Refer to the 2017 Minnesota Ratemaking Report for further information on the derivation of these pure premium base rates and rating values.

Industry Group Indicators	Group
1	Manufacturing
2	Contracting
3	Office and Clerical
4	Goods and Services
5	Miscellaneous
6	"F" Classes
7	"S" Classes
8	Maritime and Federal Classes

The highest 25% of the industry groups, ordered by pure premium base rate.

Class Code	Description	Industry Group	DSR Pure Premium Base Rate
0913	DOMESTIC WORKERS - RESIDENCES - FULL TIME	4	161.02
0908	DOMESTIC WORKERS - RESIDENCES - PART TIME	4	83.92
5059	IRON/STEEL ERECTION-FRAME STRUCTURES NOT >STORIES	2	39.26
6874	SHIP SCALING OR PAINTING (US ACT)	6	25.81
7327	STEVEDORING - CONTAINERIZED FREIGHT & D	6	25.70
5551	ROOFING - ALL KINDS & D	2	19.63
5040	IRON OR STEEL ERECTION-BRIDGES,TOWERS,EXTERIOR,FRA	2	19.12
9186	AMUSEMENT DEVICE OPERATOR-TRAVELING-ALL EMPL & D	5	19.09
7708	FIREFIGHTERS - VOLUNTEER & D	5	17.48
6703	RAILROAD CONSTRUCTION: ALL OPER INCL C,S,D(USL ACT	8	15.28
6843	SHIP BUILDING - IRON OR STEEL - NOC & D (US ACT)	6	14.89
5037	PAINTING - METAL STRUCTURES OVER STORIES & D	2	14.85
5703	BUILDING RAISING OR MOVING & D	2	11.15
5508	STREET OR ROAD CONSTRUCTION: ROCK EXCAVATION & D	2	10.49
6704	RAILROAD CONSTRUCTION: ALL OPER INC C,S,D(STATEACT	8	10.39
5705	SALVAGE OPERATION - NO WRECKING	2	10.27
4206	PULP MFG. - GROUND WOOD PROCESS	1	9.95
7313	COAL DOCK OPERATION - BY MEANS OF MECH APPARATUS	6	9.76

Class Code	Description	Industry Group	DSR Pure Premium Base Rate
6702	RAILROADS CONSTRUCTION: ALL OPER INCL C,S,D(PROG I	8	9.39
6845	SHIP BLDG - NAVAL & D	6	9.32
7327	STEVEDORING - CONTAINERIZED FREIGHT & D	7	8.98
8726	STEAMSHIP LINE OR AGENCY -PORT EMPL:SUPERS,CAPT,EN	6	8.16
8285	STOCKYARD - NO BUTCHERING	1	7.99
7855	RAILROAD CONSTR: LAYING TRACKS OR MAINT BY CONTR,D	2	7.70
5437	CARPENTRY-INSTALL OF CABINET WORK OR INTERIOR TRIM	2	7.03
5645	CARPENTRY - IN CONSTRUCTION OF DETACHED DWELLINGS	2	7.03
5651	CARPENTRY - DWELLINGS NOT > STORIES	2	7.03
8235	SASH, DOOR OR FINISHED MILLWORK DEALER & D	4	6.97
2702	LOGGING OR LUMBERING & D	5	6.89
7601	TELECOMMUNICATIONS CONTRACTORS: OVERHEAD & D	2	6.86
6204	DRILLING NOC & D	2	6.83
6003	PILE DRIVING & D	2	6.81
1463	ASPHALT WORKS & D	1	6.72
8293	STORAGE WAREHOUSE - FURNITURE & D	4	6.65
2710	SAW MILLS	1	6.59
5222	CONCRETE CONSTRUCTION IN CONNECT W/BRIDGES,CULVERT	2	6.55
5022	MASONRY NOC	2	6.52
7337	DREDGING - ALL TYPES (USL ACT)	8	6.43
1322	OIL OR GAS WELL - CLEANING OR SWABBING OF WELLS - BY SPECIALIST CONTR	2	6.42
0050	FARM MACHINERY OPERATIONS-BY CONTRACTOR & D	2	6.40
6248	CORE DRILLING - EXPLORATORY	2	6.36
0401	COTTON GIN OPERATION, LOCAL MANAGERS & D	5	6.26
8265	IRON OR STEEL SCRAP DEALER & D	4	6.06
8279	STABLES OR BREEDING FARM & D	4	6.03
6017	DAM OR LOCK CONSTRUCTION: CONCRETE WORK-ALL OPER	2	6.02
7317	STEVEDORING - BY HAND OR HANDTRUCKS EXCLUSIVELY	6	6.01
7309	STEVEDORING NOC	6	5.98
7335	DREDGING - ALL TYPES (STATE ACT)	8	5.90
8203	ICE MFG. OR DISTRIBUTION & DRIVERS	4	5.89
7398	DIVING,SALVAGE,WRECKING - MARINE (US ACT)	8	5.88
5478	CARPET, LINOLEUM, ASPHALT&RUBBER FLOOR TILE INSTAL	2	5.85
7047	VESSELS - NOC (USL ACT)	8	5.84
0106	TREE TRIMMING & D	5	5.80
6872	SHIP REPAIR CONVERSION - ALL OPER & D (US ACT)	6	5.78

Class Code	Description	Industry Group	DSR Pure Premium Base Rate
9554	SIGN INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL & D	2	5.74
7229	TRUCKING -LONG DISTANCE HAULING -ALL EMPLOYEES & D	5	5.60
7230	PARCEL OR PACKAGE DELIVERY - ALL EMPL & D	5	5.59
7231	MAIL DELIVERY SERVICE - ALL EMPL & D	5	5.59
9088	FIREWORKS EXHIBITION & D	5	5.54
5473	ASBESTOS CONTRACTOR NOC	2	5.53
7395	DIVING,SALVAGE,WRECKING - MARINE (STATE ACT)	8	5.40
7024	VESSELS: STEAMERS (STATE ACT)	8	5.36
6884	SHIP SCALING OR PAINTING (STATE ACT)	5	5.34
7333	DREDGING - ALL TYPES (PROG I)	8	5.31
7152	RAILROAD OPERATIONS: ALL EMPLOYEES & D (USL ACT)	8	5.30
5403	CARPENTRY - NOC	2	5.29
2211	COTTON BATTING, WADDING OR WASTE MFG.	1	5.27
8286	CATTLE DEALER & D (NO STOCKYARD OPER)	4	5.08
2021	SUGAR MFG. OR REFINING FROM SUGAR CANE OR SURGAR BEETS	1	5.07
8280	LIVESTOCK SALES CO: ALL OPER & D	4	5.07
2623	TANNING	1	5.03
5462	GLAZIER - AWAY FROM SHOP & D	2	5.00
6400	FENCE INSTALLATION & REPAIR	2	4.99
5474	PAINTING OR PAPER HANGING NOC, INCL SHOP & D	2	4.95
5538	SHEET METAL WORK ERECTION NOC INCL SHOP & D	2	4.94
0042	LANDSCAPE GARDENING & DRIVERS	2	4.89
3030	IRON OR STEEL WORKS SHOP - STRUCTURAL & D	1	4.88
7394	DIVING,SALVAGE,WRECKING - MARINE (PROG I)	8	4.86
7016	VESSELS NOC (PROG I)	8	4.83
9539	CANVAS GOODS,AWNING & TENT ERECTION,REMOVAL,REPAIR	2	4.79
4670	COTTONSEED OIL MFG. - BY MECHANICAL EXTRACTION & D	1	4.76
8263	JUNK DEALER & D	4	4.72
8709	STEVEDORING - TALLIERS AND CHECKERS - U S ACT	6	4.70
7099	VESSELS: NOT SELF PROPELLED (USL ACT)	8	4.68
5479	INSULATION WORK NOC & D	2	4.65
6824	BOAT BUILDING OR REPAIR & D (US ACT)	6	4.65
3365	WELDING OR CUTTING NOC & D	2	4.62
5472	ASBESTOS CONTRACTOR-PIPE & BOILER WORK EXCLUSIVELY	2	4.62
5102	DOOR, DOOR FRAME OR SASH ERECTION - METAL	2	4.61
6251	TUNNELING - NOT PNEUMATIC - ALL OPER	2	4.61
8284	LIVESTOCK COMMISSION MERCHANT INCL SALES(NO YARD)	4	4.58

Class Code	Description	Industry Group	DSR Pure Premium Base Rate
6236	OIL OR GAS WELLS-INSTALL OR RECOVERY OF CASING & D	2	4.53
4665	RENDERING WORKS NOC & D	1	4.51
5480	PLASTERING NOC & D	2	4.47
7228	TRUCKING - LOCAL HAULING ONLY - ALL EMPLOYEES & D	5	4.43
5221	CONCRETE/CEMENT WORK-FLOORS,DRIVES,YARDS,WALKS & D	2	4.40
4000	SAND OR GRAVEL DIGGING & D	5	4.37
5348	TILE, STONE, MOSAIC, OR TERRAZZO WORK - INSIDE	2	4.37
6216	OIL OR GAS LEASE WORK NOC - BY SPECIALIST CONTRACTOR & D	2	4.35
9178	ATHLETIC SPORTS OR PARK: NON-CONTACT SPORTS	5	4.32
7098	VESSELS: NOT SELF PROPELLED (STATE ACT)	8	4.30
6826	MARINA & DRIVERS (US ACT)	6	4.23
5649	EXCAVATION-CELLARS/FDNS IN WOOD DWELLINGS NOT>STO	2	4.22
6217	EXCAVATION & D	2	4.22
2157	BOTTLING - ALL OPERATIONS & ROUTE SUPERVISORS, D	1	4.21
6235	OIL OR GAS WELLS - DRILLING OR REDRILLING & D	2	4.21
1803	STONE CUTTING OR POLISHING NOC & D	1	4.14
8264	PAPER,BOTTLE,CAN(BEV),RAG DEALER/RECYCLER-USED-&D	4	4.10
3042	ELEVATOR OR ESCALATOR MFG.	1	4.09
3821	AUTOMOBILE RECYCLING & D	4	4.09
6229	IRRIGATION OR DRAINAGE SYSTEM CONSTRUCTION & D	2	4.07
9179	ATHLETIC SPORTS OR PARK: CONTACT SPORTS	5	4.04
6325	CONDUIT CONSTRUCTION - FOR CABLES OR WIRES & D	2	4.03
7390	BEER OR ALE DEALERS - WHOLESALE & DRIVERS	4	3.96
3040	IRON WORKS SHOP - NONSTRUCTURAL & D	1	3.93
7222	TRUCKING - OIL FIELD EQUIPMENT - ALL EMPL & D	5	3.93
9534	MOBILE CRANE & HOISTING SERV CONTR NOC:ALL OPER &D	2	3.93
0034	POULTRY OR EGG PRODUCER & D	4	3.92
0113	FARM - FISH HATCHERY & D	4	3.92
3081	FOUNDRY - FERROUS - NOC	1	3.89
7046	VESSELS: NPOT SELF PROPELLED (PROG I)	8	3.87
3824	AUTO,BUS,TRUCK OR TRAILER BODY MFG NOC	1	3.84
6306	SEWER CONSTRUCTION - ALL OPERATIONS & D	2	3.84
4034	CONCRETE PRODUCTS MFG & D	1	3.82
6845	SHIP BLDG - NAVAL & D	7	3.80
8500	METAL SCRAP DEALER & D	4	3.79
2759	BOX OR BOX SHOOK MFG	1	3.78
0005	NURSERY EMPLOYEES & D	4	3.72

Class Code	Description	Industry Group	DSR Pure Premium Base Rate
5506	STREET OR ROAD CONSTRUCTION: PAVING OR REPAVING &D	2	3.71
5507	STREET OR ROAD CONSTRUCTION: SUB-SURFACE WORK & D	2	3.71
5215	CONCRETE WORK - INCID TO CONSTR OF RESIDENCE	2	3.69
9402	STREET CLEANING & D	5	3.69
9403	GARBAGE, ASHES OR REFUSE COLLECTION & D	5	3.69
3018	IRON OR STEEL MFG - ROLLING MILLS & D	1	3.65

Appendix B: Calculating employer’s last available LWD case rate

OSHA-300 DATA COLLECTION – (for data collected in)

Establishment Name		Inspection Number	
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SUMMARY OSHA-300 DATA											
Data Not Available	Log Year		Avg # Full Time Employees			# Employee Hours Worked					
Work-Related Injuries and Illnesses											
(G) Number of Deaths	(H) Number of cases with days away from work	(I) Number of cases with job transfer or restriction	(J) Number of other recordable cases	(K) Number of days away from work	(L) Number of days on job transfer or restriction	(M)(1) Injury	(M)(2) Skin Disorder	(M)(3) Respiratory Condition	(M)(4) Poisoning	(M)(5) Hearing Loss	(M)(6) All Other Illnesses

Lost workday (Incidence Rate)
$\frac{\text{\# of total days (K) X 200,000}}{\text{(hours worked) or (2,000 hours for each FT employee)}}$

A link to calculate lost workday incidence rate follows: <https://www.creativesafetysupply.com/lost-workday-rate-calculator>.

TABLE SNR03. Highest incidence rates¹ of nonfatal occupational injury and illness cases with days away from work², 2019

Industry ³	NAICS Code ⁴	Incidence Rate
Nursing and residential care facilities (State government)	623	6.0
Prefabricated wood building manufacturing (Private industry)	321992	5.1
Scheduled passenger air transportation (Private industry)	481111	4.2
Elevator and moving stairway manufacturing (Private industry)	333921	3.8
Correctional institutions (State government)	92214	3.7
Hospitals (State government)	622	3.5
Couriers and express delivery services (Private industry)	4921	3.4
Urban transit systems (Private industry)	4851	3.2
Other support activities for transportation (Private industry)	4889	3.2
Seafood product preparation and packaging (Private industry)	3117	3.1
Marine cargo handling (Private industry)	48832	3.1
Bituminous coal underground mining ⁵ (Private industry)	212112	3.0
Solid waste collection (Private industry)	562111	3.0
Ambulance services (Private industry)	62191	3.0
Siding contractors (Private industry)	23817	2.8
Steel foundries (except investment) (Private industry)	331513	2.7
Interurban and rural bus transportation (Private industry)	4852	2.7
Framing contractors (Private industry)	23813	2.6
Reconstituted wood product manufacturing (Private industry)	321219	2.5
Psychiatric and substance abuse hospitals (Private industry)	6222	2.5
Nursing and residential care facilities (Local government)	623	2.5
Dairy cattle and milk production (Private industry)	11212	2.4
Water supply and irrigation systems (Private industry)	22131	2.4
Skiing facilities (Private industry)	71392	2.4
Truss manufacturing (Private industry)	321214	2.3
Concrete block and brick manufacturing (Private industry)	327331	2.3
All industries including state and local government ⁶		0.9

¹ The incidence rates represent the number of injuries and illnesses per 100 full-time equivalent workers and were calculated as: $(N/EH) \times 200,000$, where

N = number of injuries and illnesses

EH = total hours worked by all employees during the calendar year

200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year)

² Days-away-from-work cases include those that result in days away from work with or without job transfer or restriction.

³ High rate industries were those having the highest incidence rate of injury and illness cases with days away from work and at least 500 total recordable cases at the most detailed level of publication based on the *North American Industry Classification System -- United States 2017*

⁴ *North American Industry Classification System -- United States, 2017*

⁵ Data for mining operators in this industry are provided to BLS by the Mine Safety

and Health Administration U.S. Department of Labor. Independent mining contractors are excluded. These data do not reflect the changes the Occupational Safety and Health Administration made to its recordkeeping requirements effective January 1, 2002; therefore, estimates for these industries are not comparable to estimates in other industries.

⁶ Excludes farms with fewer than 11 employees.

SOURCE: U.S. Bureau of Labor Statistics, U.S. Department of Labor