

Meeting minutes: Occupational Safety and Health Advisory Council

Date: Nov. 3, 2017
Minutes prepared by: Executive Secretary Pamela McLaughlin
Location: Minnesota Department of Labor and Industry, 443 Lafayette Road N., St. Paul, MN

Attendance

Members present

- Paul Aasen
- Brandon Holmes
- Scott Huberty
- Scott Parker
- Elizabeth Rheingans

Staff members present

- Ron Anderson
- Mark Hysell
- Jim Krueger
- Ken Peterson
- Alexis Russell
- Tyrone Taylor
- Nancy Zentgraf

Guests present

- Adam Hanson, MN ABC
- Carol Keyes, CHESS, Inc.
- Gary Thaden, MMCA/NCCA

Call to order

The meeting was called to order at 10:08 a.m. by Chairman Paul Aasen. Announcements were read. Roll call was taken.

Approval of the agenda

Chairman Aasen asked for a motion to approve the Nov. 3, 2017, meeting agenda. Scott Parker moved to approve, seconded by Scott Huberty. All approved and the motion carried.

Approval of the minutes

Chairman Aasen asked for a motion to approve the May 5, 2017, draft meeting minutes. Huberty moved to approve, seconded by Brandon Holmes. All approved and the motion carried.

The 2018 meeting schedule is Feb. 2, May 4, Aug. 3 and Nov. 2.

The meeting notification system has changed. GovDelivery is the new state system being used to send board and council meeting notifications. Responses must be sent to Pam McLaughlin directly, not through the “Reply” function of the GovDelivery message.

Department update – Commissioner Ken Peterson

- Cindy Valentine retired and Jim Krueger is working as the acting Workplace Safety manager. Nancy Zentgraf is now acting director of Minnesota OSHA Compliance. Both positions will run through 2018.
- John Rajkowski, the Department of Labor and Industry’s (DLI’s) legislative liaison, passed away this summer. Alexis Russell assisted Rajkowski during the past two years and is now DLI’s legislative liaison.
- There have been fewer injuries and fatalities reported in Minnesota, which has been reflected in the reduction of workers’ compensation premiums.
- National Apprenticeship Week – Learn and Earn, highlights that apprenticeship is a great way to introduce young workers to the construction trades, health care industry and manufacturing industries. Minnesota’s workforce is nearing retirement age and a new apprenticeship initiative has been developed, which is federally funded, and administered by state agencies. Additionally, the Minnesota PIPELINE Program provides grants to employers for training in one of four industries: advanced manufacturing, agriculture, health care or information technology. For more information visit www.dli.mn.gov or call 1-800-342-5354.
- The administration is working to combat the opioid crisis in Minnesota. Chairman Aasen stated the Minnesota Department of Health has a long and good track record of providing guidance to physicians and for tracking prescriptions in ways some other states are not. The National Safety Council is a good resource for information. Some of the research about measuring effectiveness shows the most effective pain reliever is aspirin.
- Huberty asked whether Gov. Mark Dayton proclaimed November as Veteran’s Month. DLI values the service of our veterans and will host a coin ceremony to our service members Nov. 30.
- Love Your Lawyer Day is celebrated today at DLI.

Legislative update – Alexis Russell, assistant to the commissioner

- Last year was a budget year. Many omnibus bills were signed into law. The governor line-item vetoed the state Legislature's budget. Mediation efforts have stalled.
- A Minnesota OSHA proposal bill is going through the governor's office for approval, looking at conforming state-level penalties to federal levels.
- Chairman Aasen stated the Hands-free Cell Phone Driving bill was not passed.
- The new session begins Feb. 20, 2018.

New business

Silica in construction – Ron Anderson

Some progress has been made in getting a couple of regulations in place. The Silica in Construction standard has been in effect in Minnesota since Sept. 23, 2017. Minnesota OSHA (MNOSHA) Compliance is conducting silica inspections for general industry and construction as a local-emphasis program (federal OSHA withdrew its directive that covered the former permissible-exposure limits (PELs) and its new directive is not yet published). A PowerPoint presentation was provided. The standard becomes effective in general industry June 23, 2018.

One of the major changes is the reduction in PEL for both general industry and construction. The PEL is 50 micrograms per cubic meter, as an eight-hour time-weighted average. There are also changes in definition, there were separate definitions for polymorphs of silica, but now it is all respirable crystalline silica. MNOSHA tried something new in the construction standard with what is known as Table 1, a list of specified exposure control methods for common tasks. It streamlines the process. Another element of the program is a written exposure control plan, which includes a description of tasks, how to protect employees and how housekeeping will be done. Employers are to have a program in place and to it review annually. Templates are available and federal OSHA has a small-entity compliance guide available. Many other groups, tool manufacturers, vendors and consultants also have guides available.

Walking, working surfaces and fall-protection standards – Ron Anderson

A complete and total re-write of Subpart D of the General Industry regulation – everything from 1910.20 through 1910.30 and many other standards it affects – was adopted in Minnesota on Aug. 7, 2017, fully effective Sept. 19, 2017, for any dates in the standard that had elapsed. Future dates written into the standard were adopted. When the dates become effective in federal states, they would be adopted in Minnesota and become effective as they occur. The rule aligned fall-protection requirements in general industry with those in construction. Construction standards have had much more specific and detailed guidance for fall protection, which is being brought into general industry requirements. General industry will follow the construction scaffolding standard, so one standard will be for both general industry and construction. It is a fairly detailed standard. The standards for ladders, stairways, guardrails and door openings have been rewritten and renumbered (the former standards will not match up with the numbering in the new standard). The terminology

is defined and provides more clarification. Specific training requirements are outlined for both general industry and construction.

Old business

None.

Staff reports

Federal OSHA update – Mark Hysell, area director Eau Claire office

- On Oct. 27, 2017, the White House announced President Donald Trump would nominate Scott Mugno, vice-president of safety for FedEx, to head OSHA. Mugno has worked at FedEx since August 1994, joining the company as a senior attorney. From February 2000 to December 2011, he was managing director of corporate safety, health and fire prevention until his promotion to vice-president.
- On Sept. 26, 2017, the Department of Labor awarded \$10.5 million in training grants to 80 nonprofit organizations for workplace safety and health. The funding, provided through the Susan Harwood Training Grants Program, will provide education and training to help businesses and workers address workplace hazards and adopt best-practices for avoiding workplace injuries. The grants require recipients to focus on safety and health topics designated by OSHA.
- On July 14, 2017, OSHA announced the application to electronically submit injury and illness data will launch Aug. 1, 2017. The Injury Tracking Application (ITA) is a web-based form that allows employers to electronically submit required injury and illness data from their completed 2016 OSHA Form 300A. OSHA extended the deadline for submission of 2016 Form 300A to Dec. 1, 2017, to allow affected entities sufficient time to become familiar with the electronic reporting system and to provide the new administration an opportunity to review the new electronic reporting requirements. The data submission process involves four steps: creating an establishment; adding Form 300A summary data; submitting data to OSHA; and reviewing the confirmation email message. The secure website offers three options for data submission: users may manually enter data into a web form; users may upload a file to process single or multiple establishments at the same time; and users of automated recordkeeping systems may transmit data electronically via an application programming interface. The ITA webpage also includes information about reporting requirements, answers to frequently asked questions and a link for requesting assistance with completing the form. MNOSHA Compliance has provided its intent to adopt the rule to include both private- and public-sector information submission; however, it has not done so to-date.
- On June 23, 2017, OSHA published a proposed rule to modify the new beryllium standard for the construction and shipyard sectors. On Jan. 9, 2017, OSHA issued a final rule that established new protections for workers who are exposed to beryllium in general industry, construction and shipyards. The new proposal makes changes to the rule only for the shipyard and construction sectors; the general industry standard is unaffected by the proposal. This proposal provides a new opportunity to comment on the rule for those industries and the public. Shipyards and construction would maintain the

requirements for exposure limits (PEL of 0.2 µg/m³ and short-term exposure limit of 2.0 µg/m³), which will continue to protect workers from a serious beryllium-related lung disease, known as chronic beryllium disease. The proposal instead revises the application of ancillary provisions, such as housekeeping and personal protective equipment, in the January 2017 final standards for the construction and shipyard industries.

- On April 6, 2017, OSHA announced delaying the enforcement of the crystalline silica standard in the construction industry. Originally scheduled to begin June 23, 2017, enforcement began instead Sept. 23, 2017.
- On Jan. 17, 2017, the final rule to update the general industry walking-working surfaces and fall protection standard became effective. The effective dates include:
 - ensuring exposed workers are trained about fall hazards (May 17, 2017);
 - ensuring workers who use equipment covered by the final rule are trained (May 17, 2017);
 - inspecting and certifying permanent anchorages for rope descent systems (Nov. 20, 2017);
 - installing personal fall arrest or ladder safety systems on new fixed ladders over 24 feet and on replacement ladders/ladder sections, including fixed ladders on outdoor advertising structures (Nov. 19, 2018);
 - ensuring existing fixed ladders over 24 feet, including those on outdoor advertising structures, are equipped with a cage, well, personal fall-arrest system or ladder safety system (Nov. 19, 2018); and
 - replacing cages and wells (used as fall protection) with ladder safety or personal fall-arrest systems on all fixed ladders over 24 feet (Nov. 18, 2036).
- MNOSHA adopted the identical rule with an effective date of Sept. 19, 2017.
- Closer to home:
 - the fiscal-year 2018 21(d) and 23(g) grant applications were submitted electronically in July and were awarded effective Oct. 1, 2017; and
 - the fiscal-year 2017 FAME MNOSHA on-site review will be during the week of Jan. 22, 2018, with a four-member OSHA team conducting the comprehensive review of the fiscal-year 2017 23(g) enforcement program.

Workplace Safety Consultation statistics update – Tyrone Taylor, director

The following statistics are for the fourth quarter of federal-fiscal-year 2017.

Consultation visits:

- 206 initial visits (162 safety, 34 health, 10 joint safety and health);
- 30 formal training visits;
- 22 follow-up visits;
- 258 total consultation visits for safety and health services; and
- 140 residential construction sites.

Hazards identified:

- 1,293 observed hazards, in violation of 967 OSHA standards (871 serious – includes one imminent danger, 89 other-than-serious hazard exposures and seven regulatory, such as recordkeeping).

Total interventions:

- 87 interventions – includes formal training, Minnesota STAR (MNSTAR) Program activities, conference participation and technical assistance, impacting 918 establishments, represented by more than 1,500 employees.

Construction activity, about 20 percent residential construction worksites:

- 113 initial visits;
- eight formal training visits; and
- eight follow-up visits.

Other fourth-quarter highlights:

- three presentations for the Minnesota Rural Water Association;
- 11 presentations to construction associations and employers, including six about the new silica standard – silica exposure control-program assistance for two construction employers;
- two workplace violence prevention presentations – participation with the workplace violence strategies conference;
- participation with five ergonomics and safe patient-handling events focusing on emergency medical services, hospitals and skilled nursing organizations; and
- one presentation for the Minnesota Department of Education work-based learning coordinators (high-school-level student placement with local area businesses).

Alliance Program:

- participated with Labor Week activities at the Mexican Consulate, including participating with the mobile consulate in Willmar, Minnesota, and continue to have monthly presentations about Workplace Safety Consultation programs and services;
- ongoing worksite consultation and curriculum review with Minnesota State Colleges to introduce safety;
- hazard communications and right-to-know presentations for the Alliance of Automotive Service Providers in Duluth;
- helped develop training materials for dental clinics for the Minnesota Dental Association;
- participated on the education committee and developed newsletter articles for the Minnesota Electrical Association; and
- participated in monthly meetings and subcommittee meetings for the National Association of Minority Contractors.

Minnesota Safety and Health Achievement Recognition Program (MNSHARP):

- 27 MNSHARP worksites in general industry, with four pre-SHARP worksites working toward earning MNSHARP status – Mechanical Systems, Inc., K&K Manufacturing, Daybreak Foods and Alliance;
- six MNSHARP Construction worksites –
 - Opus Design Build, L.L.C. –Nic on Fifth/Xcel Project,
 - John Kramer and Sons – Frederickson Project,
 - John Kramer and Sons – Garrison Landing Project,
 - Meyer Contracting – Nicollet Mall Renovation Project,
 - Mortensen Construction – Target Center Renovation Project and
 - Mortensen Construction – University of Minnesota Athletes Village Project; and
- six pre-SHARP worksites working toward earning MNSHARP Construction status –
 - Adolfson and Peterson Construction – St. Peter Hospital Project,
 - Adolfson and Peterson – Elk River/Sherburne County Government Center Project,
 - Opus – Lincoln Way Project,
 - Knutson Construction Services – Mercy Hospital Expansion,
 - Findorff – Harvard Street Project and
 - McGough Construction – Land O’Lakes Addition Project.

Minnesota STAR (MNSTAR) Program:

- 35 MNSTAR Program worksites; and
- one merit worksite, with the potential to qualify for MNSTAR Program status, NRG – Energy Center Minneapolis, L.L.C.

Safety Grant Program:

- 97 grant applications received and reviewed, with a total of \$855,391 requested;
- 46 grants awarded, totaling \$342,089;
- total project costs equaled \$4,606,114; and
- grants were distributed to 39 private companies (18 construction, one health care, seven logging, nine manufacturing and four service) and seven public-sector entities.

Training, outreach and partnerships update – Ron Anderson

The following statistics are for the fourth quarter of federal-fiscal-year 2017.

Outreach:

- 15 presentations were provided to 1,650 participants;
- the Sept. 19 Construction Safety Seminar about the new construction silica standard attracted 150 participants to the MnDOT Training Center in Shoreview, Minnesota, and vendor representatives were present (the Nov. 21 seminar topic is fall protection);
- Minnesota OSHA participated in Northern Regional Safety Day in September, staffing a booth and providing a presentation;

- the July edition of the *Safety Lines* newsletter featured a story about heat danger;
- the Arthur E. McCauley, Jr. Award was presented to Bob Sarna at the Minnesota Safety Conference;
- Minnesota OSHA's had its first Excavation Safety Stand-down in the spring; and
- MNOSHA's website section is being evaluated, with some of the information to be rewritten and changes to individual pages expected within the next six months.

Partnerships:

- 13 partnership worksites, including six new sites within the past quarter, with the Minnesota Chapter of Associated Builders and Contractors (MN ABC) or Associated General Contractors (AGC) of Minnesota; and
- two MnDOT projects wrapped up in the fourth quarter – St. Croix Crossing and Highway 53 – with meetings to share best-practices learned after the projects' completion.

Compliance assistance:

- MNOSHA Compliance answered 1,200 phone calls and 550 written and electronic requests for information from employers, employees, consultants and others.

Right-to-know training:

- Chairman Aasen asked about right-to-know (RTK) training. It appears attention to these topics have decreased over time. MNOSHA Workplace Safety Consultation continues to receive requests for RTK and HazCom training. Parker stated his industry instructs apprentices, but he's seen an increase in contractors that fail to train their employees on both topics. Nancy Zentgraf said both continue to be on MNOSHA's most-frequently cited list. Anderson said that since the revised 2012 standard was published, with includes the GHS requirement, many were focused on GHS and not on the hazards. Liz Rheingans asked who teaches the hazard specifics to each industry. Taylor said MNOSHA's training is about the actual standard, how employers can comply with the standard and best practices for compliance. Examples are given about real scenarios in their industry and questions are answered about how to get started. A printed list to help the employer get started is provided. Each employer must conduct a hazard assessment of the job duties for that particular employer.

Compliance statistics update – Nancy Zentgraf, director

The following statistics are for the fourth quarter of federal-fiscal-year 2017.

Inspections:

- 17 fatality and 80 serious-injury conducted;
- 1,856 total conducted;
- 1,229 complaints were handled, resulting in 319 inspections;
- response time to complaints was 3.4 days; and
- citation-issuance time was 29 days.

Emphasis programs prioritized:

- excavations;
- fall protection;
- machine guarding lockout/tagout; and
- industrial hygiene sampling.

Completed additional training and inspections in:

- health care;
- grain handling;
- foundries; and
- meat packing.

Significant legislation or rulemaking:

- for the final rule for Occupational Exposure to Respirable Crystalline Silica, Minnesota OSHA adopted the final rule Sept. 26, 2016 –
 - *Following federal OSHA's decision, MNOSHA decided to delay the enforcement of the crystalline silica standard (1926.1153) in construction. Enforcement of this standard was to begin June 23, 2017, but began Sept. 23, 2017. MNOSHA Compliance will continue to provide guidance to employers to ensure they are successful in implementing the requirements of the standard;*
- for the final rule to Improve Tracking of Workplace Injuries and Illnesses, the response to federal OSHA was submitted and subsequent rulemaking is dependent upon federal database development;
- for beryllium, federal OSHA issued a notice of proposed rulemaking;
- more Information about the status in Minnesota regarding these and other federal regulations is included in "Federal regulation update, April 2017," at www.dli.mn.gov/OSHA/Pdf/federal_reg_update0417.pdf; and
- for the final rule for Walking-Working Surfaces and Fall Protection Standards, MNOSHA adopted this standard Aug. 7, 2017, with an effective date of Sept. 19, 2017.

Federal OSHA:

- the budget level for federal-fiscal-year 2018 MNOSHA enforcement remains near federal-fiscal-year 2015, 2016 and 2017 levels; and
- the inspection goal for federal-fiscal-year 2018 is 1,800.

Staffing:

- one safety investigator position currently remains open in the Mankato area office.

OSHSPA:

- the fall Occupational Safety and Health State Plan Association (OSHSPA) and federal meeting was Oct. 31, 2017, in Jackson, Wyoming.

Huberty asked whether temporary workers were included in any of the emphasis programs of MNOSHA Workplace Safety Consultation or MNOSHA Compliance. Taylor said WSC is in the process of revamping the temporary-employee work group. Dave Ferkul is heading the group and has contacted several temporary-employment agencies; three agencies have responded that they will continue to participate in the quarterly meetings. The employer is responsible for conducting safety training for all employees, temporary or not, based upon the hazard assessment for the appropriate job duties.

Chairman Aasen will send a link to the council members for a webinar about the impact sleep has on work safety, "The Importance of Sleep — for Safer Workplaces and Roadways," presented by Dr. Conrad Iber, medical director, Fairview Sleep Centers. Fatigue overlay might explain bad choices and behavior that affects safety on the job and on the roads. When a third of the population is chronically fatigued or a sixth of the population is severely sleep-deprived, the impact it has on the body and one's cognitive function may explain how bad choices are made that affect safety on the job or while driving. Rheingans stated fatigue is a major problem in rural areas during pre-harvest time, with an increase seen in trucking and farm machinery accidents. There is tremendous pressure working on farms with thousands of acreage.

Postscript: The link is www.minnesotasafetycouncil.org/mo/Fatigue-MNSafetyCouncil.pdf.

Adjournment

The meeting adjourned at 11:16 a.m.