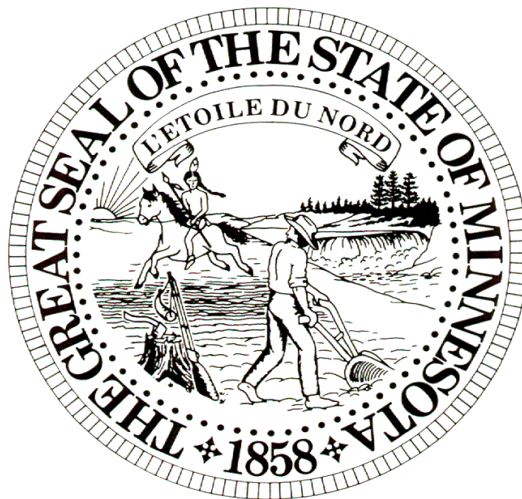


**FFY 2021**

**Minnesota Occupational Safety & Health Compliance  
State OSHA Annual Report (SOAR)**

***MNOSHA – 23g***



December 2021  
[Final]

**SOAR for FFY2021**  
**Minnesota Occupational Safety & Health (MNOSHA) Compliance**

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**SOAR for FFY2021**  
**Minnesota Occupational Safety & Health (MNOSHA) Compliance**  
**INTRODUCTION**

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The Minnesota Occupational Safety and Health (MNOSHA) program is administered by the Minnesota Department of Labor and Industry (DLI); the program became effective on August 1, 1973, with final State Plan approval being obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections, adoption of standards, and operation of other related OSHA activities) and the Workplace Safety Consultation (WSC) Division which provides free consultation services, on request, to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is: "To make sure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA including standards development, enforcement, compliance assistance, and outreach which enable employers to maintain safe and healthful workplaces.

MNOSHA's vision is to be a leader in occupational safety and health and make Minnesota's workplaces the safest in the nation. MNOSHA is striving for the elimination of workplace injuries, illnesses, and deaths so that all of Minnesota's workers can return home safely. MNOSHA believes that to support this vision, the workplace must be characterized by a genuine, shared commitment to workplace safety by both employers and workers, with necessary training, resources, and support systems devoted to making this happen.

The Minnesota Occupational Safety and Health Strategic Plan for FFY2019 to 2023 established three strategic goals:

<b>MNOSHA Compliance (OSH) Strategic Goals</b>
Goal 1: Reduce occupational hazards through compliance inspections
Goal 2: Promote a safety and health culture through compliance assistance, outreach, cooperative programs and strong leadership
Goal 3: Strengthen and improve MNOSHA's infrastructure

The FFY2021 Performance Plan provided the framework for accomplishing the goals of the MNOSHA Strategic Plan by establishing specific performance goals for FFY2021. This SOAR presents a review of the strategies used and results achieved in FFY2021. Special accomplishments as well as the successful completion of mandated activities are also discussed.

**GOAL SUMMARIES - SOAR for FFY2021**  
**Minnesota Occupational Safety and Health (MNOSHA) Compliance**  
**SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS**

With few exceptions, MNOSHA Compliance's FFY2021 performance goals have been achieved. Each of the FFY2021 Performance goals and the activities and strategies used to achieve those goals are described below. Comments/discussion relating to accomplishment of Goal sub-items follows each chart.

**Goal 1: Reduce occupational hazards through compliance inspections**

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/18	FFY 21 Target	FFY 21 Results
1. Reduce Total Recordable Cases (TRC) Rate	BLS data CY 5-year average using the 5 years prior to the target year CY 2015-2019 avg.: 3.32	Reduction in TRC rate from the previous 5-year avg. CY 2015-2019 avg.: 3.32	Consistent reduction over five-year plan  (See comments following chart [1.1])  CY 2020 TRC rate: 3.5, a 5.42% increase
2. Reduce fatality rate <sup>1</sup> for fatalities within MNOSHA's jurisdiction	<sup>2</sup> DEED & MNOSHA data FY 5-year average using the 5 years prior to the target year FY 2016-2020 avg.: .780	Reduction in fatality rate from the previous 5-year avg. FY 2016-2020 avg.: .780	Consistent reduction over five-year plan  (See comments following chart [1.2])  FY 2021 fatality rate: 1.309 a 67.8% increase
3. Number of hazards identified & establishments visited: a) Total hazards identified / establishments visited  b) Establishment emphasis <sup>3</sup> 1. <u>Inspection emphasis</u> 23 Construction 311 Food mfg. 312 Beverage & tobacco product mfg. 321 Wood product mfg. 322 Paper manufacturing 326 Plastics & rubber products mfg. 331 Primary metal mfg. 332 Fabricated metal product mfg. 333 Machinery mfg. 336 Transportation equipment mfg. 337 Furniture & related product mfg. 424 Merchant wholesalers, nondurable goods 441 Motor vehicle & parts dealers 444 Bldg material & garden equip supplies Public Sector (State & Local Gov't & Schools) 2. <u>National Emphasis Programs</u> Amputations – General Industry Combustible Dust – General Industry Lead – Health PSM – Health & General Industry Trenching Hazards – Construction 3. <u>Local Emphasis Programs</u> Foundries – General Industry & Health Grain Facilities – General Industry & Health Healthcare – General Industry & Health Hexavalent Chromium - Health Isocyanates - Health Meat Packing–General Industry & Health Silica- Health Window Washing – General Industry  c) Ergo, Workplace Violence & Safe Patient Handling, including hospitals, surgical centers, nursing homes	MNOSHA data FY 2013 – 2017 avg.: 4256 / 2303  N/A  Current practice	N/A  65% of all programmed inspections  Ongoing support of WSC's Ergo, Workplace Violence & SPH effort	1721 / 1219  95% of all programmed inspections  See below
4. Percent of designated programmed Inspections <sup>4</sup>	MNOSHA data FY 2013-2017 avg: 82%	82%	65%

<sup>1</sup>Fatality rate is calculated as the number of fatalities per 100,000 workers: (# MNOSHA fatalities / # of MN employed workers) x 100,000

<sup>2</sup>Minnesota Department of Employment and Economic Development.

<sup>3</sup>The quantity of programmed inspections is variable; therefore, no defined number is provided.

<sup>4</sup> The percent of designated programmed inspections is driven by the amount of unprogrammed activity each year. The target listed is the 5-year average and this metric is tracked to allow for an evaluation of annual trends and is not meant to be evaluated as a specific goal.

**Goal 1.1**

Reduce total recordable cases: FFY21 target = reduction in TRC from the previous 5-year average and a consistent reduction over the five-year plan.

Minnesota's estimated workplace injury and illness rate for 2020 rose slightly from that of 2019. According to the annual Survey of Occupational Injuries and Illnesses, the state had an estimated 3.5 OSHA-recordable, nonfatal, workplace injuries and illnesses per 100 full-time-equivalent (FTE) workers in 2020; the estimated rate for 2019 was 3.2 cases per 100 FTE workers, the lowest ever recorded since 1973.

The survey estimated Minnesota had 76,700 workers with OSHA-recordable, nonfatal, workplace injuries and illnesses in 2020, compared to 73,600 estimated cases for 2019. There were 17,400 illnesses in 2020 and, of these, 14,500 were respiratory illnesses, including 14,300 COVID-19 cases. In 2019, there were 400 respiratory cases and in 2018, 200. COVID-19, accounted for 41% of all injuries and illnesses

In 2020, Minnesota's employment covered by the survey was approximately 2.78 million workers. In 2019, employment covered by the survey was 2.87 million workers.

These survey results show the importance of employers taking measures to keep the workplace safe from the hazards of COVID-19 and other injuries and illnesses,

The TRC for calendar year 2020 increased 5.42% from the previous 5-year average.

**Goal 1.2**

Reduction in state fatality rate: FFY21 target = reduction in fatality rate from the previous 5-year average and a consistent reduction over the five-year plan.

The fatality rate for FFY 2021 increased 67.8% from the previous 5-year average. There were 35 fatalities in Minnesota in FFY 2021, and the rate of fatalities (1.309) was higher than the average rate of fatalities for FFY 2016-2020 (.780). However, COVID-19 accounted for 6 of those fatalities. The rate without COVID-19 fatalities was (1.085) for FFY 2021. The fatalities occurred in a broad range of industries and were due to various causes. MNOSHA conducts inspections according to its policies, and addresses workplace fatalities through its various outreach methods. Going forward, MNOSHA, along with partners and stakeholders, will further identify areas on which to focus its outreach resources.

Minnesota's Fatal Occupational Injuries per 100,00 full-time equivalents workers (2019) is 2.6. This is the lowest of its surrounding states Iowa, North Dakota, South Dakota and Wisconsin. This is from BLS data:

<https://www.bls.gov/iif/oshstate.htm>

**Goal 1.3**

Hazards abated / establishments visited: FFY21 target = 65% of all programmed inspections conducted in emphasis industries.

In FFY 2021, MNOSHA investigators conducted 1,219 inspections where 1,721 hazards were identified and cited. Sixty-eight percent (68%) of the inspections conducted resulted in violations; 75% of violations were cited serious. MNOSHA continues to create incentives for employers to address safety and health issues through strong, fair, and effective enforcement of safety and health regulations. MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries.

The FFY 2021 goal was for 65% of all programmed inspections conducted to be in the emphasis industries. MNOSHA met this goal. MNOSHA conducted 95% of all programmed inspections in the emphasis industries.

As part of an ergonomic focus, MNOSHA conducted 7 programmed inspections in the meat processing and healthcare industries and a total of 24 inspections including unprogrammed activity.

**GOAL SUMMARIES - SOAR for FFY2021  
Minnesota Occupational Safety and Health (MNOSHA) Compliance  
SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS**

**Goal 2**

**Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership**

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/18	FFY 21 Target	FFY 21 Results
1. Increase or maintain: <ul style="list-style-type: none"> <li>a. Partnerships</li> <li>b. Voluntary Protection Programs (MNSTAR)</li> <li>c. Continue to identify compliance assistance opportunities.<sup>1</sup></li> <li>f. Alliances<sup>2</sup></li> </ul>	# of FFY18 partnerships: 2  # of FFY18 MNSTAR sites: 35  Current practice  N/A	Maintain  1 new and 3 recerts  Ongoing  1 new	1 new and maintained 2 (See comments following chart [2.1a,c])  0 new and 15 recerts (See comments following chart [2.1.b])  (See comments following chart [2.1a,c])  (See comments following chart [2.1.f])
2. Maintain total number of people participating in OSHA outreach/training in areas such as: <ul style="list-style-type: none"> <li>a. Youth</li> <li>b. Immigrant employers and employees</li> <li>c. Emerging businesses</li> <li>d. Construction</li> <li>e. Manufacturing</li> <li>f. Other strategic plan compliance</li> <li>g. Public sector</li> </ul>	FY 2013-2017 avg: 3,751	3500	2,240
3. Participate in homeland security efforts at state and national levels	Current practice	Ongoing	Ongoing (See comments following chart [2.3])
4. Maintain response time and/or service level to stakeholders in areas such as: <ul style="list-style-type: none"> <li>a. Telephone inquiries and assistance</li> <li>b. Written requests for information</li> <li>c. MNOSHA website information/updates</li> </ul>	Current practice	Ongoing	Ongoing (See comments following chart) [2.4]

<sup>1</sup>The compliance assistance activities are incorporated in various places, including Goals 1 and 2.

<sup>2</sup>The Goal 2.1.f. target of 1 new Alliance was projected in the Consultation FFY 2021 CAPP. Alliances in the public sector are reported in the SOAR.

**Goal 2.1.a.c -**

Compliance Assistance (including maintaining 2 partnerships) in FFY21.

MNOSHA's construction safety and health partnerships with the Minnesota Chapter of Associated Builders and Contractors (MN ABC) and with Associated General Contractors (AGC) of Minnesota are designed to help reduce the number of injuries, illnesses and fatalities at participating construction industry employers.

The partnership is managed by both associations and has three levels. Level 1 requires the employer to maintain the minimum requirements of a safety and health program. Level 2 requires a more comprehensive safety and health program. Level 3 is MNOSHA's Cooperative Compliance Partnership (CCP) program, whereby MNOSHA Compliance will provide compliance assistance for a specific project. To qualify, contractors must be at Level 2 for a minimum of one year and can then apply for participation in the CCP program for construction projects expected to last at least six months, but fewer than 18 months.

In FFY 2021, MNOSHA completed Cooperative Compliance Partnership agreements with twenty Level 3 individual contractors at 24 specific construction sites, across the whole state. The partnership continues to hold quarterly meetings with Level 3 contractors. At these meetings, contractors share best practices with each other. The focus of the meetings is on accident and injury reduction.

MNOSHA entered into an agreement with MnDOT and Ames/Kraemer Joint Venture (AKJV). This partnership is for the I-35, I-535, Highway 53 Twin Ports Interchange project in Duluth Minnesota. This project consists of the reconstruction of I-35/I-535/Highway 53 interchange to improve safety and traffic. This project began October 2020 and will continue through the fall of 2024.

MNOSHA continues to strive to improve communication with immigrant and "hard-to-reach" employers and employees. MNOSHA employs one investigator who is fluent in both English and Spanish and one investigator who is fluent in Somali and English. MNOSHA gave one presentation in Spanish this year. In addition, MNOSHA provides written materials to immigrant and other hard-to-reach employers in coordination with the Department's community services representative.

**Goal 2.1.b -**

Increase VPPs by 1 new and 3 re-certifications in FFY21.

MNSTAR is a voluntary protection program available to any size employer in Minnesota. The MNSTAR program relies mainly on the concept of self-assessment by the requesting employer and follows ADM 3.28K which is the Minnesota specific MNSTAR/VPP directive.

MNSTAR requires the employer's commitment to complete an extensive application, which includes providing the WSC Unit with copies of all requested written policies and programs. The employer's TCIR and DART injury and illness rates must be below the national averages, for their industry. Employers who meet all requirements for MNSTAR status are exempt from programmed inspections by MNOSHA Compliance for up to three years, upon initial certification, and up to five years upon subsequent re-certification.

MNSTAR/VPP has been very successful since its inception in FFY 1999. MNSTAR status has been awarded to both large and small employers in high-hazard and in state-targeted industries.

FFY 2021 ended with 34 full STAR sites. No new sites were granted full STAR status, therefore, not meeting the FFY 2021 goal. Fifteen companies successfully achieved full re-certification as MNSTAR sites, also meeting the FFY 2021 goal. One site withdrew from MNSTAR.

All active MNSTAR certified companies for FFY 2021 are available on the Department's website:

<https://www.dli.mn.gov/business/workplace-safety-and-health/mnosha-wsc-minnesota-star-mnstar-program>.

**Goal 2.1.f -**

Increase Alliances by 1 in FFY2021 (projected in Consultation's FFY2021 CAPP).

**Mexican Consulate**

WSC continued to work with the Mexican Consulate providing a series of presentations, highlighting the programs and services offered by WSC and answer questions on occupational safety and health. At the start of the COVID-19 pandemic the discussion focused on COVID-19 preparedness. The presentations were attended by Latino business and community representatives. COVID-19 resulted in the closing of the Consulate facility which reopened towards the end of FFY21, and in person presentations were able to resume.

WSC participated in a hybrid (in person/virtual) "Labor Week" event with the Consulate, providing information on COVID-19 preparedness, worker rights and health and safety.

The alliance agreement was renewed on March 24, 2021

### **MN Dental Association**

Continued technical assistance on COVID-19 preparedness and mitigation strategies for the MN Board of Dentistry and MN Dental Association. Response during COVID-19 included sharing of technical information on OSHA standards for respiratory protection and OSHA memorandums of understanding.

### **Hospital Safety & Health Group**

Continued technical assistance on COVID-19 preparedness and mitigation strategies for multiple acute care systems in Minnesota. Response during COVID-19 included sharing of technical information on OSHA standards for respiratory protection and OSHA memorandums of understanding.

### **Electrical Association**

WSC is represented on the association's education committee. The committee plans for regional conferences, including selection of educational topics.

### **MN State Colleges and Universities**

The alliance continues support of campus safety & health management efforts, through on-site hazard surveys, program assistance, training, and other technical assistance. Due to COVID-19, on-site assistance was limited to seven visits.

### **Minnesota Municipal Utilities Association (MMUA)**

Continued worker exposure assessments to respirable, crystalline silica (RCS). Various municipalities have participated in arranging for exposure assessments during street cleaning and various other tasks that expose workers to RCS.

### **Goal 2.2 -**

In FFY21 target = 3500 people participating in outreach/training areas.

MNOSHA established a baseline of 3,500 participants per year for outreach training sessions covering various subject areas. In FFY 2021, MNOSHA Compliance conducted 53 presentations to 2,240 participants. MNOSHA continued to utilize its Safety Investigator 3 and 4 positions in its outreach efforts throughout the state. We have Supervisors participating in the Department webinars. Most of the outreach presentations have dealt with COVID-19. Some of the items covered are the role of MNOSHA, OSHA standards, and our inspection process. A lot of the discussion was on preparedness plans and protecting workers from COVID-19.

Each year, MNOSHA Compliance has five leading organizations that request outreach services: Midwest Center for Occupational Health and Safety; Associated General Contractors of Minnesota; Associated Building Contractors; American Society of Safety Professionals; and Minnesota Safety Council. In these leading areas, MNOSHA did 29 outreach presentations to over 1,129 participants.

In addition, MNOSHA conducted five Construction Seminars in FFY 2021. The Construction Seminar was developed to assist members of the construction industry responsible for worksite safety to stay current with MNOSHA standards. The Construction Seminar provides a forum for members of the construction trades and their employers to discuss issues and experiences with the speaker, their peers, and MNOSHA investigators. MNOSHA continues to work with the Construction Seminar Focus Group to select safety topics and presenters for each event. Topics are discussed and then approved by MNOSHA's management team. The committee is comprised of various representatives from the construction industry, including insurance loss control representatives, company safety directors, and safety consultants who volunteer their time and expertise. In total, the Construction Seminar presentations attracted 349 participants. Topics Included: Why mental wellbeing and suicide prevention are leadership issues in construction, health standards in construction, fall protection updates, mobile elevating work platforms, and electrical safety on the construction worksite. Each of seminars was held virtually using WebEx.

MNOSHA continued its strong working relationship with the Minnesota Safety Council. MNOSHA continues to provide speakers for some of their classes. In the past we have participated in their conferences. The conference was held virtually this year and we provided a speaker and a virtual booth. MNOSHA provided presentations at the local American Society of Safety Professionals (ASSP) with 90 participants in attendance.



New or revised publications during the fiscal year included: MNOSHA Fatality Investigation Summary for FFY 2021; MNOSHA Serious Injury Investigation Summary for FFY 2021; and MNOSHA Most Frequently Cited Standards for FFY 2021. MNOSHA continually updated the COVID-19 Preparedness Plan template and instructions. This is on our website and has been translated into 4 languages. MNOSHA also updated the overhead door fact sheet and added it to the website. In addition to the specific publications, MNOSHA continues to publish its newsletter, Safety Lines. Some of the topics covered in articles this past year included: grain bins, safety grants, WSC Consultation outreach, recordkeeping, partnerships, rulemaking update, carbon monoxide threat during the winter months, articles on COVID-19, health for young workers, alliances, and other informational articles.

**Goal 2.3 -**

**Homeland Security (Current practice; ongoing)**

The MNOSHA Compliance program continued to participate on the State Emergency Response Plan. The Minnesota Emergency Operations Plan was reviewed in August 2021. During FFY 2021, a MNOSHA supervisor attended four meetings of the Emergency Response Preparedness Committee. A MNOSHA supervisor represented the Department at the State Emergency Operations Center (SEOC) throughout the fiscal year. MNOSHA, and the entire Department of Labor and Industry, continue to participate in the State's emergency response to COVID-19.

**Goal 2.4 -**

**In FFY21, maintain response time and/or service level to stakeholders.**

Each business day, MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and emails. At the end of March 2020, MNOSHA rolled all the incoming phone calls to a voicemail box as staff began to telework. Each day the voicemail and emails were emailed to 4-6 safety and health professionals on duty to answer the phone call or email. During FFY 2021, MNOSHA responded to 7,072 phone calls and 6,292 written requests for assistance, primarily emails (total of 13,364 inquiries). Because our system has changed, we are no longer able to categorize the caller. Most information is provided to callers during the initial phone call, while others are directed to the MNOSHA or federal OSHA websites, or another state agency for assistance. Most of the information requested is COVID-19 related. Our staff gave advice on how to protect employees during these calls. For this reason, MNOSHA continues to use investigative staff to answer most of the calls

During FFY 2021, MNOSHA received 1,415 workplace safety and health employee complaints. And 236 or 17% of the total complaints resulted in an onsite inspection with an average of 2.7 days response time. The remaining complaints were handled via MNOSHA's phone/fax system (non-formal complaint).

MNOSHA also provides a variety of safety and health information on its website, including printable handouts. The MNOSHA website provides links to other websites where safety and health regulations can be accessed. In total, there were 51,810 hits to the MNOSHA web page and an additional 18,431 hits to the MNOSHA COVID-19 page.

**GOAL SUMMARIES - SOAR for FFY2021**  
**Minnesota Occupational Safety and Health (MNOSHA) Compliance**  
**SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS**

**Goal 3**  
**Strengthen and improve MNOSHA's infrastructure**

How Progress in Achieving this Goal Could Be Assessed	Baseline 9/30/18	FFY 21 Target	FFY 21 Results
1. Review rules annually for effectiveness: ongoing evaluation, development of rules, standards, guidelines and procedures.	Current practice	Ongoing	See comments following chart. [3.1]
2. Workforce development and retention plan	Current practice	Evaluate and update existing workforce plan.	See comments following chart. [3.2]
3. Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided to stakeholders, are met.	Current practice	1) Evaluate consistency and quality of inspection files 2) Review organizational structure to streamline complaint intake	See comments following chart. [3.3]

**GOAL 3 – Comments**

**Goal 3.1 –**

In FFY21: Conduct Annual Review of Rules/Standards, Guidelines and Procedures, ongoing

The MNOSHA Compliance Directives Coordination Team (DCT) is charged with coordinating and managing the MNOSHA internal information system. The DCT consists of three MNOSHA management analysts, and both a MNOSHA director and supervisor. This group monitors federal standard/policy activity and coordinates updates to all relevant MNOSHA standards, directives, and policies accordingly. MNOSHA adopts federal standards by reference and/or develops Minnesota-specific standards when necessary to support MNOSHA program goals.

- Federal standards adopted in FFY 2021:
  - Occupational Exposure to COVID-19; Emergency Temporary Standard
  - Cranes and Derricks in Construction – Railway Roadway Work
  - Occupational Exposure to Beryllium in Construction and Shipyard Sector
  - Revising the Beryllium Standard for General Industry
- Minnesota Rules adopted in FFY 2021:
  - None.

The annual review of Agency rules resulted in no additional MNOSHA obsolete or duplicative rules needing repeal in FFY 2021.

Of the 27 MNOSHA directive issuances in FFY 2021, all but one were existing directives that were revised, either as part of the scheduled review, or as needed. The amended directives included those pertaining to: injury and illness inspection procedures, contestations and informal conferences, multi-employer worksite citation policies, handling complaints/reports of injury and information requests, referral handling procedures, investigator and consultant training, noise in general industry, inspection procedures for hazardous waste operations and emergency response (Hazwoper), inspection procedures for respirable crystalline silica, enforcement of formaldehyde, lead exposure in construction, metal working lathes, guarding belt conveyors, joint labor management safety committees, three roller printing ink mills, enforcement guidelines for outdoor heat stress, guidance on the directive system, cellular phone policy, equipment purchasing and inventory, cranes and derricks in construction, crane operator certification, and citation guidance for AWAIR. The new directives was: CPL 2-2.90 Inspection Procedures for COVID-19 ETS, was developed to provide guidance for COVID-19 inspections. Also note that ADM 3.16 Administrative Process for Handling Complaints/Reports of Injuries/Illnesses and Information Requests was updated twice during this period.

MNOSHA compliance continues to propose legislation that would update MNOSHA's maximum penalties in statute. MNOSHA has not been successful in recent years in getting the penalty conformance legislation passed, including FFY21. MNOSHA intends to propose legislation during the next legislative session and will review the penalty process upon successful passing of the revised statute.

### **Goal 3.2 -**

FFY21: Workforce development and retention plan: Ongoing evaluation and updates as necessary.

In FFY 2021, MNOSHA continued to maintain consistency and quality throughout the organization's field staff. Goals previously identified and continued in FFY 2021 were:

- To assure that MNOSHA has an adequate workforce to ensure that worksites are complying with MNOSHA safety and health regulations; and
- To assure that MNOSHA continues to be an organization that is recognized as a "best-in-class" state plan state.

Results from updating the Workforce Development Plan in FFY 2018 showed that MNOSHA staff in a number of leadership positions with significant years' experience may and would be retiring. These departures reduce MNOSHA's institutional knowledge and memory. This will potentially create leadership challenges in supporting and managing the many different approaches and situations of work/life balance for employees. As MNOSHA's workforce shifts to newer and less experienced employees, there will be an increasing need to invest in career planning for these workers to build their proficiency in their jobs. This will increase the need to assess skills, abilities, and competencies, and provide training accordingly.

During FFY2021, MNOSHA focused on increasing field staff. MNOSHA hired 13 field staff during this time. The Workplace Safety Consultation Director resigned and was replaced with a supervisor from MNOSHA Enforcement. In addition, due to COVID-19 MNOSHA has added one additional permanent discrimination position and one temporary (two years) position to the discrimination unit. This increased our discrimination investigative staff from three investigators to five investigators to handle the increase of discrimination cases received during COVID-19. MNOSHA has also posted for a Supervisor over the Industrial Hygienist staff. In addition, the Health Director position was filled and during FFY22, MNOSHA will reassign the industrial hygienists to one unit reporting to the Health Supervisor. Also during FFY 2021, MNOSHA replaced the vacant Training Officer position, promoted 2 staff members to Safety Investigator 4 positions, and filled a vacant Management Analyst position.

In addition, MNOSHA has been able to retain field staff that have significant safety and health experience and retain one investigator who speaks fluent Spanish and one who speaks fluent Somali. MNOSHA has extremely dedicated and experienced staff, including four Industrial Hygienists and two chemical engineers with over fifteen years of experience, including two certified industrial hygienists (CIHs), and 10 Safety Investigators and one civil engineer with over ten years of experience. In addition, thirteen new investigative staff (3 Industrial Hygienists and 10 Safety Investigators) were hired during the last year.

MNOSHA continued with specialized training in select industries such as foundries, grain handling, agriculture hazards, meat packing, health care, process safety management (PSM), and traffic controls. Each of these areas have had team leaders that assume the role as "expert" in this area and work with various stakeholders to ensure that communication is maintained between MNOSHA staff and the various stakeholders. These team leads gain knowledge on leadership and how to work with significant stakeholders in the state of Minnesota. Asbestos and hazwoper recertification were also provided to employees of MNOSHA during FFY 2021.

During FFY 2021, MNOSHA trained its staff on: Right-to-know, and COVID-19 pandemic preparedness plan. Training was provided in classroom and virtually to ensure that MNOSHA continues to have a well-trained staff even during the COVID-19 pandemic.

### **Goal 3.3 -**

FFY21: Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided to stakeholders are met: 1) Ongoing- Evaluate consistency and quality of inspection files 2) Review organizational structure to streamline complaint intake.

1. MNOSHA continued to use the multi-level review process as well as board meetings to improve the consistency of inspection files and ensure quality reports were being generated timely. MNOSHA updated its board meeting process to remove the need for board meetings for serious injury inspections that are being conducted by either a Safety Investigator 2 or 3 or an Industrial Hygienist 3. MNOSHA also updated its serious injury directive providing greater direction and discretion to Supervisors to conduct many employer reported injuries through our non-formal process (similar to Federal OSHA's Rapid Response). This added discretion allows the OMT to manage our investigator resources and also ensures that hazards identified to MNOSHA are abated timely.

2. MNOSHA reviewed our workflow process with a desire to improve consistency and efficiency of our complaint intake and follow up processes. Working toward this goal we have hired a supervisor that will oversee our complaint intake process. This individual will be responsible for ensuring consistent implementation of the criteria for conducting serious injury inspections, allowing injuries and illnesses not meeting that criteria to be handled as non-formal complaints. The intent is to provide consistent review and handling of incoming complaints and free up resources to allow MNOSHA to be more proactive with our investigations.

MNOSHA has been receiving a number of pictures from stakeholders (Imminent Danger Complaints) related to falls in the construction industry that are showing a repetitive pattern of employee(s) not protected from fall protection at heights greater than six feet. MNOSHA updated its manuals and educated its staff to utilize these pictures in the field to document that employee(s) are not tied off and issue citations to the appropriate employer.

In addition to traditional compliance activities, MNOSHA also concentrates efforts in other areas aimed at assisting employers to make their workplaces safer and healthier. Some achievements for FFY 2021 include:

**MNOSHA Signs Consent Decree Ending Court Ordered Process**

On October 28, 2019 the Minnesota Department of Labor and Industry and the MN Department of Health (MDH) shutdown a fishing tackle and battery component maker Water Gremlin Company after the children of employees were found to have dangerous levels of lead in their blood. Following an inspection by MNOSHA we found that there were insufficient measures in place to prevent lead dust from making its way into the homes of company employees, and into the bloodstreams of their families.

Department of Labor and Industry Commissioner issued a temporary order shutting down production at the facility for 72 hours. The Department of Labor and Industry and the Department of Health filed a petition in Ramsey County District Court where a Judge affirmed the state's authority and actions to address the public health threat of lead poisoning and protect children. The judge provided clear and detailed orders regarding steps that Water Gremlin Company must put into place in the short-term and the need for the employer to implement a permanent solution to better protect the health and safety of its workers and their families.

The order required permanent solutions to be implemented within the next year, including new changing areas and shower facilities, to ensure workers are free of lead when they leave the facility. In the short term, the judge ordered Water Gremlin Company to clean up lead contamination in the facility and employees' vehicles. The judge also ordered the MDH to reach out to current and former employee's and offer to have the employer pay for testing and remediation conducted in employee's homes if requested by the employee.

The company has completed the permanent solutions and cleanup of employee vehicles and homes. All parties have executed a consent decree closing out this process with the court, acknowledging that the company has complied with the order of the court.

**MNOSHA Adapts and Responds during the COVID-19**

MNOSHA managed to continue to respond effectively to the needs of the State and the Department in response to COVID-19. This response included acquiring and providing appropriate technology to allow almost all staff to work from their homes. Implementing COVID-19 preparedness plans to protect our employees when entering our office and when conducting inspections in the field. Our employees were trained on this plan and provided with cloth face coverings, face shields, antifog safety glasses, cleaning supplies and other items needed to respond during this difficult time. Since the start of COVID-19 many changes have occurred within Minnesota OSHA (MNOSHA) Compliance from March 1, 2020 through September 30, 2021. Like many other businesses and organizations, MNOSHA began practicing social distancing by having staff members work remotely. MNOSHA created a telework plan for all staff and a specific plan for its field staff that has been added to our Field Safety and Health Manual. These plans have been updated frequently to adjust to the fluctuated COVID-19 cases throughout the state in the last year.

Since the beginning of the COVID-19 MNOSHA has seen a significant increase in e-mails and phone calls (inquiries). This required MNOSHA to dedicate additional staff to responding to these inquiries. Since the start of the COVID-19, from March 1, 2020 to September 30, 2021:

- MNOSHA received 26,183 email and phone inquiries.
  - Included 2,352 non-formal complaints.
  - Included 457 (178 COVID-19) formal complaints.
- MNOSHA conducted 1,911 inspections (221 COVID-19); issued 2,747 citations (177 citations issued on inspections with a COVID-19 component, with 59 being general duty citations).
- MNOSHA's Discrimination unit fielded a total of 618 intakes, which resulted in 148 cases that are being pursued. 98 cases have been designated as having a COVID-19 component.
- Also during FFY21, MNOSHA received 145 data practice requests resulting in 2,051 files being requested.

MNOSHA continued to be challenged during the pandemic and many innovative solutions were implemented to allow MNOSHA to maintain our effectiveness. Our staff are equipped with appropriate technology including laptop computers and state issued cellular phones. We communicate our pandemic office reopening plan to instruct our staff when they may telework and when they may not as the pandemic cases fluctuated throughout the year in the state.

We continue to track our incoming phone and email inquiries and monitor the fluctuation of pandemic cases. MNOSHA continued to have staff remote and unable to answer phones directly, all calls were routed to a voicemail box. These voicemails were then routed through email to our outreach coordinator who also received all our external email requests. These phone and email requests were then distributed to investigative staff who returned the calls and addressed all the inquiries within a day. The number of staff required to respond to the large volume of inquiries fluctuated from as few as 4 up to 10 staff per day.

During FFY21 MNOSHA determined that answering live phone calls from our stakeholders was important and necessary. Effective October 1, 2021, MNOSHA returned to having investigators report in person to their office to answer live phone calls from our stakeholders. The call system software we are using tracks numbers of calls and other related statistics. All senior MNOSHA safety investigators and industrial hygienists (Senior Investigative Staff) answer phone calls, screen complaints, serious injuries and fatalities and respond to e-mails. E-mails are still routed by our outreach coordinator to staff working remotely to limit staff numbers within our offices, as outlined in our policy.

### **Loggers' Safety Education Program (LogSafe)**

This program is 100% state-funded and administered by the WSC unit. The LogSafe training provides safety training throughout the state for logging employers. The training was contracted to the Minnesota Logger Education Program, and was renewed for CYs 2022 and 2023. The goal of the program is to help reduce injuries and illnesses in the logging industry through onsite consultation services, outreach and training seminars. In order to receive workers' compensation premium rebates from the Targeted Industry Fund, logger employers must maintain current workers' compensation and they and their employees must have attended, during the previous year, a logging safety seminar sponsored or approved by the WSC unit. These classes will provide an overview of general safety topics related to recent work comp injuries and claims for the logging industry in Minnesota. Topics to be covered may include: preventing equipment fires, slips and falls prevention, emergency response call systems, hydraulic safety, tire maintenance safety, general health and personal safety, GHS labeling systems, 1st aid kit requirements, emergency planning and communication strategies, and other topics as deemed appropriate to address trends in logging safety. There currently is not a consultant position dedicated to logging. Logging employers can still submit a request for consultation services.

### **Workplace Violence Prevention Program**

This program helps employers and employees reduce the incidence of violence in their workplaces by providing onsite consultation, training seminars, and general information. The program focus is on providing technical assistance to workplaces at higher risk of violence. There has been continued work on workplace violence prevention in public sector establishments, with specific topic areas on program development, de-escalation of violent situations, and facility design. The Workplace Violence Prevention Program is a 100% state-funded program and is administered by safety consultants within the WSC unit.

Ongoing occurrences of workplace violence incidents at work facilities has maintained continued interest for ongoing technical assistance in the form of onsite evaluations and formal training. In FY 2021, overall activities were limited due to COVID-19, but included: 10 separate Workplace violence prevention presentations for a wide range of audiences covering 65 participants.

The workplace violence prevention consultant continues to serve on an advisory board for the Midwest Center for Occupational Health and Safety, Education and Research Center.

### **Safety Grants Program**

This 100% state-funded program, which is administered by the WSC unit, awards funds up to \$10,000 for qualifying employers on projects designed to reduce the risk of injury and illness to their employees. Qualified applicants must be able to match the grant money awarded and must use the award to complete a project that reduces the risk of injury or disease to employees.

During SFY 2021, the State was given additional funding for the program. This resulted in a higher number of applicants receiving their full, requested grant. The program awarded \$1,420,651 to 191 applicants representing private sector employers (e.g., health care facilities, construction, logging, manufacturing, and other service employers) and public sector employers (e.g., schools, health care facilities, and municipalities).

Examples of items purchased included: fall protection systems and equipment to minimize fall hazards, trenching/excavation cave-in protection equipment, vacuum excavator, safe patient handling equipment, tools &

equipment for silica dust control, material handling equipment and other tools to minimize exposure to ergonomic risk factors, workplace violence prevention equipment, exhaust ventilation systems, improved logging & log hauling equipment, machine guarding and safeguarding devices, various PPE and accessories, repair of walking/working surfaces, chemical spill equipment and training, permit-required confined space entry equipment, emergency eyewash, loading dock vehicle restraints, road construction safety equipment, and noise control.

### **Ergonomics Program**

WSC has an ergonomics program coordinator, with a CPE credential. Safe patient handling (SPH) in acute healthcare, long-term healthcare, dental offices, and emergency services continue to be areas of significant involvement, mainly through networks of stakeholders. Ergonomic assessments in manufacturing, animal zoo, and various public sector establishments were also completed.

During the fiscal year, the position was assigned to an inter-departmental team that developed State-wide guidance and provided technical assistance to stakeholders, on COVID-19 preparedness. The consultant provided support for human factors considerations in the development of guidance documents and while participating in technical assistance. From the beginning of the fiscal year through end of the fiscal year, activities relating to COVID-19 preparedness took up a majority of the work time, for the position. Activities included extensive outreach on the Healthcare ETS and its impact on the school health clinics, universities, and housing with services facilities.

Overall, on-site consultative services were provided at a distribution and warehousing facility, multiple manufacturing facilities, and multiple healthcare facilities including acute and long-term care. In addition, 239 interventions were completed which included formal training, outreach, and technical assistance. Training and technical assistance topics included COVID-19 preparedness, hazardous drugs, ergonomics and patient handling injury prevention, and injury/illness recordkeeping.

**Compliance:**

Activities mandated under the Occupational Safety and Health Act are considered core elements of Minnesota's occupational safety and health program. The accomplishment of these core elements is tied to achievement of the State's strategic goals. Many mandated activities are "strategic tools" used to achieve outcome and performance goals.

"Mandated activities" include program assurances and state activity measures. Fundamental program requirements that are an integral part of the MNOSHA program are assured through an annual commitment included as part of the 23(g) grant application. Program assurances include:

- ▶ Unannounced, targeted inspections, including prohibition against advance notice;
- ▶ First instance sanctions;
- ▶ A system to adjudicate contestations;
- ▶ Ensuring abatement of potentially harmful or fatal conditions;
- ▶ Prompt and effective standards setting and allocation of sufficient resources;
- ▶ Counteraction of imminent dangers;
- ▶ Responses to complaints;
- ▶ Fatality/catastrophe investigations;
- ▶ Ensuring employees:
  - \* Protection against, and investigation of, discrimination
  - \* Access to health and safety information
  - \* Information on their rights and obligations under the Act
  - \* Access to information on their exposure to toxic or harmful agents
- ▶ Coverage of public employees;
- ▶ Recordkeeping and reporting;
- ▶ Voluntary compliance activities.

Mandated activities are tracked on a quarterly basis using the SAMM (State Activity Mandated Measures) Report which compares State activity data to an established reference point. A comparison of MNOSHA activity measures for FFY 19, FFY20, and FFY21 is provided in the tables on pp. 17-18.

Continued success was seen in these mandated activities in FFY21:

- Days to initiate complaint inspections decreased to 2.7 days but remains lower than the goal of 9 days.
- Days to initiate complaint investigations decreased to 0.72 days but remains below the goal of 2 days.

MNOSHA's percent of total inspections in public sector increased to 3.2% in FFY21, meeting our goal of 3%, as well as attaining the overall inspection goal of 1,219 inspections.

There was one activity that fell short of our anticipated goal in FFY21:

The percentage in compliance of our health inspections increased this year to almost 54%. Unprogrammed inspections, including Covid-19 complaints and fatalities, continue to impact our percent in compliance. MNOSHA continues to work on reducing our percentage of inspections that are in compliance.

**Consultation**

Mandated activities are tracked on a quarterly basis using the MARC (Mandated Activities Report for Consultation) and the CAPP (Consultation Annual Performance Plan) Report which compares State consultation data to an established reference point. Some specific performance measures that are monitored (and any corresponding targets/requirements):

- Percent of initial visits in high hazards establishments (not less than 90%);
- Percent of initial visits to smaller businesses (not less than 90%);
- Percent of visits where consultant conferred with employee (100%);
- Percent of serious hazards verified corrected in a timely manner, <= 14 days of latest correction due date (100%);
- Percent of serious hazards verified corrected in original time or on-site (65%).

The MNOSHA Public Sector Consultation program met CAPP total visit projections and met all MARC performance measures for FY 2020:

- Percent of initial visits in high hazard establishment...96.83%
- Percent of initial visits to businesses with <250 employees at the establishment...88.89%
- Percent of initial visits to businesses with <500 employees controlled by employer...98.41%
- Percent of visits where Consultant conferred with Employees ....100%
- Percent of serious hazards verified corrected in a timely manner...99.53%
- Percent of serious hazards verified corrected (in original time or on-site)...92.49%



**COMPARISON OF FFY19, FFY20, and FFY21 ACTIVITY MEASURES**  
**MNOSHA Compliance**

<b>Performance Measure</b>	<b>FFY19</b>	<b>FFY20</b>	<b>FFY21</b>	<b>Comments</b>
Average number of work days to initiate complaint inspections (state formula)	2.60	2.79	2.73	The average number of days to initiate a complaint inspection decreased in FFY21 and remains below the established goal of 9 days.
Average number of work days to initiate complaint inspections	2.04	2.03	2.22	(Federal formula)
Average number of work days to initiate complaint investigations (state formula)	0.82	0.99	0.72	The average number of days to initiate a complaint investigation decreased in FFY21 and remains below the established goal of 2 days.
Average number of work days to initiate complaint investigations	0.72	0.96	0.69	(Federal formula)
Percent of complaints & referrals responded to within 1 workday (imminent danger)	99.3	100	98	All but two imminent danger complaints which required anticipatory warrants were responded to within one day.
Number of denials where entry not obtained	0	0	0	Entry was obtained for all denials in FFY21.
Average violations per inspection with violations – Serious/willful/repeat	1.86	1.98	1.83	The number of SWR citations decreased in FFY21. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Average violations per inspection with violations– Other	0.70	0.68	0.60	The number of other citations decreased in FFY21. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Percent of total inspections in public sector	4.51	2.61	3.2	The percent of programmed public sector inspections increased to meet the goal of 3%.
Inspections - Safety	1509	1181	1030	The number of safety inspections in FFY21 met the fiscal year goal.
Inspections - Health	322	238	189	The number of health inspections decreased in FFY21 and did not meet the fiscal year goal.
Average current penalty per serious violation (Private Sector Only) Total 1–250+ EEs	1028.31	1128.49	1340.31	The overall average current penalty increased in FFY21.
Average current penalty per serious violation (Private Sector Only) 1-25 EEs	733.07	665.00	1135.00	The average penalty for this size employer increased in FFY21.
Average current penalty per serious violation (Private Sector Only) 26-100 EEs	696.58	822.92	1062.91	The average penalty for this size employer increased in FFY21.
Average current penalty per serious violation (Private Sector Only) 101-250 EEs	1640.14	3371.79	1310.96	The average penalty for this size employer decreased from FFY20.

Average current penalty per serious violation (Private Sector Only) 251+ EEs	3406.66	3147.37	3980.89	The average penalty for the largest employers increased in FFY21.
Percent in compliance – Safety	37.00	37.67	40.06	The percent noncompliance safety inspections increased from FFY20.
Percent in compliance – Health	41.80	52.07	53.85	The percent noncompliance health inspections increased in FFY21.
% of work-related fatalities responded to in 1 work day	100	96.55	96.97	All but one fatality was responded to within one day. Due to inaccurate reporting, the inspection was actually initiated the same day the employee died.
Average lapse time from opening conference date to issue date – Safety	21.28	25.80	28.03	Safety lapse time increased in FFY21.
Average lapse time from opening conference date to issue date - Health	27.63	39.15	39.29	Health lapse time remained about the same in FFY21.
Percent penalty retained	87.36	91.12	91.13	The percent penalty retained increased each year of the comparison.
% of initial inspections with employee walk around representation	100	100	100	The percent of inspections with walk around representation remained at 100%.
Percent of 11(c) investigations completed within 90 days	33	48	36	MNOSHA continued to work on the backlogged cases as well as the increase in new cases. The percent completed decreased in FFY21.
Percent of 11(c) complaints that are meritorious	11	21	8	MNOSHA's percent meritorious cases decreased in FFY21.
Average number calendar days to complete 11(c) investigations	216	201	244	The average number of days increased from FFY20. The discrimination unit continues to work on the backlogged cases.

Data Source: SAMM report run by Federal OSHA November 2021