

# Labor-Management Advisory Council

## Safety Committee

October 6, 2014

Committee members present: Don Judge, Al Smith, TJ Eyer, Glenn Oppel, Lance Zanto

Others present: Chris Cavazos, Doug Buman, LMAC; Diana Ferriter, Bryan Page, Jerry Laughery, ERD; Mark Cadwallader, Montana Department of Labor and Industry; Representative Chuck Hunter, HD 79/83; Tim Mattick, Krista Lee Evans, Greg Thayer, MT Grain Elevators; Dustin Steward, MT Building Industry Association; Robyn Morrison, WorkSafeMT.

### State OSHA Program

The group reviewed the letter regarding the proposed enabling legislation from the U.S. Department of Labor OSHA. Mark explained the changes in the bill, such as changing “may” to “shall” in appropriate places.

Lance commented the OSHA letter timeframe is 1-2 years.

Krista Lee Evans, at the request of the committee, made the following comments:

- Grain elevators are currently in a federal OSHA emphasis program
- Concern that state OSHA standards could become more restrictive than federal OSHA standards
- Suggested language that state standards could not be more restrictive than federal *unless* there are no federal standards
- Concern whether repeat violations apply to the company or to the specific location (preferred) (Bryan said what according to the feds?)
- The possibility of having a state OSHA board similar to the Board of Environmental Review which does have rulemaking authority
- Concern about how broad the enabling legislation is
- In the end, the effectiveness of programs is up to OSHA; a state OSHA does not have to adopt federal emphasis programs but a state program has to be “at least as effective”; the question is who determines “as effective” or what the measurements are

Doug said the feds have a advisory groups and a long process for determining areas of emphasis.

Bryan said we would like to have our areas of emphasis driven by state data.

Don said the Montana injury rate is still well over the national average. At the national averag, Montana would save \$115M/year. Federal OSHA is not working to reduce this.

Tim Mattick said there is no educational effort by fed OSHA.

Bryan said that before an area of emphasis was determined, there would be one year of education.

Al suggested where there is an existing federal standard, requiring a super majority of the state OSHA body to change.

Mark discussed the authority of the state OSHA body. If an advisory council, it would not have the authority to establish standards through rulemaking.

Krista repeated the suggestion of the model of the statutory body similar to the Environmental Review to put the super majority process into place.

Rep. Hunter said he thought the Legislature would be reluctant to move in the direction of delegating authority to an administrative board. One has not been set up for a long time. However, it may be possible to establish an administrative board with very restricted scope.

Doug said OSHA has five advisory committees. In the Washington state OSHA, there is an advisory board but not a statutory board. If you can demonstrate that a federal emphasis area does not apply to your state, you don't need to follow it. For example, Washington developed their own emphasis area (standard?) for backovers and hyperbaric pressure in construction. Doug recommended an advisory board to keep it simple.

Dustin emphasized that the state grain elevator operators all want to be safe.

Doug explained how Washington went above federal OSHA standards on hyperbaric standards because the current standards were based on diving and not on construction. Other exceptions were the depth of a ditch. He urged not limiting how to go about changing standards. You need stakeholder input and buy-in in the process anyway.

Chris said that labor was concerned about safety but not to the point of jeopardizing the existence of jobs.

Rep. Hunter asked about including "evidence-based" language in the enabling legislation regarding this issue. The group, including the Grain Elevator Association representatives, agreed that was a good step in the right direction.

Krista pointed out their membership only get together once a year in January to discuss issues.

Rep. Hunter asked for clarification of monetary figure. DF explained in 2011, NCCI said MT would save \$140M in loss costs.

DF noted that Bryan and Jerry are going to OSHPA conference the end of the month to get more information.

Doug said the State of Washington offered any level of assistance to Montana, during their state conference on safety and health which followed the Montana conference last month.

### **Schools Outreach/OSHA 10-Hour Course**

TJ summarized what has been done so far with WSMT: organizing a student videos competition and meeting with state technical education directors to promote it. They are also promoting OSHA 10-hour cards. Robyn said WSMT is looking for nominees for safety awards.

Don said he would be sending Mike Halligan with the Washington Corporation a proposal to help underwrite trainer education courses. He said the LMAC is really pushing on safety education.

Bryan said training is also being done at SafetyFests.

**Public Comment**

There was no public comment.

Meeting adjourned.