

Public Works Directors Association Meeting
Wednesday, June 10th, 2009
9:00-11:00 a.m.
GPCOG Conference Room

Present: Erik Street, (Yarmouth), Chair; Doug Fortier (Windham); John Foster (Brunswick); Bob Malley (Cape Elizabeth); Roger Mosley (Standish); Jim Plummer (Freeport); Rob Pontau (Topsham); Mike Shaw (Scarborough); Jim Smith (Sebago).

Guest: Steve Greeley, Deputy Director of Workplace Safety and Health Division

Staff: Carol MacKenzie (GPCOG), Eben Marsh (GPCOG); Sue McIntyre (GPCOG).

1. **Welcome and Introductions** – Erik Street - Chairman
Erik Street called the meeting to order at 9:00 and welcomed those present.
2. **Acceptance of Minutes from May 13th, 2009.**
Bob Malley made a motion for approval of the May 13th, 2009 meeting minutes, seconded by Roger Mosley. Vote taken. All were in favor. Minutes approved.
3. **Roundtable Discussion:** - Steve Greeley, Assistant Dir. Of Workplace Safety and Health Division
- *Topics discussed:* Safety Programs, Compliance Directives, Safety Inspections, etc.

Erik introduced Steve Greeley, Deputy Dir. of Workplace Safety and Health Division. Steve said he had been with the Maine Department of Labor for over 10 years. He first began as a Safety Engineer and then became Supervisor of the division that oversaw public safety enforcement within public sector groups. There are 14 employees who are part of his field staff. Out of those only two of them are responsible for enforcement. The Maine Department of Labor Public Sector Enforcement officers may enter a workplace to examine conditions that may affect the safety or health of employees. Among groups that come under the public sector jurisdiction are municipalities, county offices, quasi-legal offices, Maine Turnpike Authority, sewer and water districts, etc.

The Maine Department of Labor offers a voluntary, outreach program called *Safety Works*. At the employer's request, a Safety Works consultant can review your workplace to make it a safer place to work. A request for consultation allows the employer to be exempt for up to six months from "enforcement". For instance, if enforcement came in and were told that you are in consultation, they would leave the premises. The only exception for them to remain would be if they had stopped in due to the report of a serious accident. They would then look at that one item but would not review anything else. Among items that the professional consultant could do is improve your safety program, recognize safety hazards, identify training needs, etc. The consultation only applies to the employer that made the request. If a town applies for consultation for all of their departments, then the entire town is exempt for up to six months. If for instance, only the Public Works Department requests the consultation, then they would be the only department that would be exempt. The remaining town offices and departments would not be. He noted that his department would rather work within a voluntary compliance role. However, once the enforcement staff has been there you cannot call for consultation. That is why they would prefer that you call them for a consultation and initiate the request. Safety Works can only come in when invited by someone that has the authority to do so. If there is only one item you'd like consultation to look at, that is what they will do. However, it is advised to have everything reviewed during the consultation. More information can be found at www.safetyworksmaine.com/consultations/

There is a program offered by Safety Works called Safety Award for Public Employers (S.H.A.P.E.). This program basically ties in with a consultation each year or two and exempts you from any unannounced visits. The program is available to either a single town department or the whole town. Brunswick and Kennebunk are among some of the towns that currently take part in this program. The S.H.A.P.E. Program is the only one of its kind in the United States. There is a similar program offered to the private sector as well. That is called SHARP.

In reference to the Safety Works program, Steve noted that if you control your injuries and you are following regulations, there is no reason why you cannot take part in the S.H.A.P.E. Program. He encouraged anyone interested to give his office a call. They in turn will send some information along with a self-evaluation form.

Once they have received your completed evaluation form they will send someone to do a walk-thru in the workplace. If the Safety Works representative finds something wrong you just have to correct those items. Steve noted that they currently have about 20 employers in this program and several are going through the process.

Items noted during a question and comment session:

- Safety Works comes under the jurisdiction of both 29 CFR 1910 and 29 CFR 1926 regulations.
- 29 CFR 1910 applies to most industries.
- 29 CFR 1926 applies to field work such as a trench. It's construction. Flagging would come under 1926.
- The group was advised to go with the most stringent rules when it comes to having to follow regulations that fall under different jurisdictions. If an employer feels that they are told to do something that is not listed in the guidelines, it is recommended that you give them a call for clarification.

Steve distributed a handout entitled "Bureau of Labor Standards Compliance Directives" and provided an overview. The list is a guide only and notes the minimum standards. More information can be found at the www.osha.gov website. Another handout included a one-page list of the most common citations given out by the Maine Department of Labor

OSHA's penalties for private companies differ from those imposed on the public sector employers. For instance, private company penalties are usually seven times higher than those imposed on the public sector. Steve noted that the largest penalty he was involved with was around \$100,000 but was reduced because the employer hired a full time safety person. The public sector also differs in another way from the private sector. If an employer receives a \$10,000 penalty it can sometimes be decreased to \$0 through a penalty discussion. A request for a penalty discussion must be made within 15 state working business days. If the request is not made within that timeframe, the penalty becomes a final order. None of this money goes to the general fund. Oftentimes they would rather see it go towards correcting the hazard. A good faith effort must be made to correct any hazards. Steve recommended that invoices be kept for any purchases that are made to correct a citation and/or to take pictures of corrections made. Those are the types of items that you want on hand if you were to have an enforcement inspection. There is one exception. OSHA came out with a respiratory correction program. If you have respirators, you need to have a written program, annual training, testing, and a medical evaluation (not a physical). Medical evaluations are based on age. 18 up through 35 must be done every five years. 36-40 must be done every two years. Once over 40 years of age, the medical evaluation must be done every year. Proper storage of the respirator is also important. A short discussion followed pertaining to the use of dust masks. It was advised that wetting down surfaces often is a good way to control dust. More information on this topic is available on the www.osha.gov website – see appendix D.

Steve spoke of other items such as Personal Protective Equipment, work zone training and the general duty clause. The OSHA general duty clause for the private sector states that an "employer will provide a safe work environment". The public sector division of safety in the workplace came up with a general duty clause that addresses emergency traffic control and training regarding work zone areas, etc. Other items discussed included topics on subcontractors, confined spaces, lock-out/tag-out items, etc. In reference to work zone subcontractors, it is best to have the language in place that they will follow safety rules and regulations. If a town's employees are put at risk by a subcontractor, the town and/or public works department could be cited. Shutdown procedures are needed to lock out a piece of equipment and/or any type of energy source whether it is electrical, hydraulics, steam, pressure, etc. Different rules apply to single energy source equipment. A review of lockout/tagout programs must be done on an annual basis. (For more information on all of these topics, please review OSHA standards 19 CFR 1910 and 29 CFR 1926). A short discussion followed about confined spaces. Sometimes due to certain conditions and criteria pertaining to confined spaces, an internal permit is required. (Details on confined spaces are available under 1910.146 at www.OSHA.gov under C or P.) It was advised to document any work done that pertains to confined spaces. Items noted included: keeping a written program and identify the different duties; if you only have one person going in a confined space, the use of a tripod plus an attendant is strongly recommended; you must take into consideration how you get the person out if something goes wrong; refer to 1910.146 at www.osha.gov for more information on internal permits; permits should be maintained for at least one year; a review of your confined spaces program must be done on a yearly basis; and, keep good records and document.

OSHA came out with a focus inspection program. The leading causes of injuries in construction are falls. This is followed by electrical injuries, "stuck-bys", and "caught between". When it comes to trenching work, Steve re-iterated that he strongly advised documentation. He also reminded the group that a "spoil pile" should be

at least two feet away from the trench opening.

Other items:

HAZCOM –

- A written hazard communications program must be updated yearly.
- Make sure you have a chemical inventory list and it must also be updated yearly.
- If you handle sewage you should have an exposure control plan and have a Hepatitis B vaccine program.
- Make sure you have an exposure control plan, training and the vaccines.

Fork-Lifts –

- In reference to bobcat equipment, OSHA's definition on that is that if it is an earth moving piece of equipment it is covered under the fork lift section in the Bureau of Labor Standards.
- Fork lift training must include both classroom training and hands-on training. It must also include observation of a person operating a fork lift. An evaluation must be done at least every three years with the use of the equipment.
- In regards to "forks", it must be manufactured for that piece of equipment to be an attachment.

In summary Steve noted that John Reed is the new person for enforcement in southern Maine. Southern Maine covers over ten counties. He reminded the group that if enforcement shows up at your office, they will first ask who is in charge and tell you why they are there. Steve advised the group to ask to see their credentials. If you are under consultation with Safety Works, tell them. Unless they are there for a complaint or serious accident, they will leave.

If you are not under consultation, or if they are there due to a complaint or serious accident, walk around with the enforcement officer and ask questions. The enforcement officer cannot discuss or talk about penalties. A report will be sent to you by certified mail and returned receipt. It is sent by certified mail because you have 15 state working business days to reply. In your reply, do not be afraid to ask for a penalty discussion. The Bureau of Labor Standards would rather see penalty monies used for the correction of hazards. He also advised keeping track of whatever it costs to repair items mentioned in the report. Keep track of hours spent as well. Bring the documentation with you at the penalty discussion session.

There is a bill in the Legislature looking to make changes in OSHA administration. They will be hiring more inspectors and there is going to be a push with enforcement. How that affects the public sector is not known at the moment.

Steve ended by saying "if you ever hear anything and it doesn't sound quite right to you, call them and they will tell you". The BLS would rather work with you in a consultation way. He re-iterated that that the group consider having their Public Works Department apply for the S.H.A.P.E. Program. As long as you are 100% compliant and have programs in place, you are eligible to join the S.H.A.P.E. Program. Brochures were made available to the group and more information is available at www.safetyworksmaine.com/safe_workplace/shape.html

Erik thanked Steve for his presentation to the group.

4. Announcements

- Salt bids out next Wednesday.

5. Other Business

- Cumberland County Rodeo winners: Maine Turnpike Authority took both first and second place. Third place went to the Town of Kennebunk.
- Cape Elizabeth has offered to host the Rodeo again next year. Westbrook has inquired about hosting the event in 2011.
- Plaques were expensive and cost about \$700.00 but the Chapter paid for those.

6. Next Meeting – August 12th, 2009

- There was consensus among the group to skip July's meeting and resume meetings in August.

7. Adjourn

The meeting adjourned at 11:00 a.m.