



A partnering program of the  
Minnesota Chapter of  
**Associated Builders and Contractors**

And the

**Occupational Safety and Health Division**  
Of the Minnesota Department of Labor and Industry

Minnesota Chapter of ABC and  
Minnesota OSHA's Partnership Program



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*Date* \_\_\_\_\_

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Carla Struble, MN ABC Chairman

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Heather Planting, MN ABC Safety Committee Co-Chair

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Donny Hines, MN ABC Minnesota Partnership Committee

# Definitions

**Accident:** An undesirable event that results from a failure to meet acceptable standards and causes harm to people, property or processes

**AWAIR:** A workplace accident and injury reduction program

**Competent person:** A person who, through training and experience, must be able to recognize hazards and will have the authority to take prompt corrective action

**Designated safety personnel:** A person who, through training and experience, must be able to recognize hazards and will have the authority to take prompt corrective action

**ERTK:** Employee right-to-know program

**Field construction supervisory personnel:** Anyone in the field who is authorized to assign or make decisions about the work task

**Hazard recognition:** Hazards in the workplace that (if unabated) could potentially cause bodily harm

**Jobsite review:** A team of two-to-three MN ABC representatives conducting a walkthrough/audit of a project that will include an observation of how the employer responds to abating identified hazards, written programs, training records and all other items related to the applicable level. (Level 1)

**MN ABC:** Minnesota Chapter of Associated Builders and Contractors

**MNOSHA:** Minnesota Occupational Safety and Health Administration

**NAICS:** North American Industrial Classification System

**Near-miss:** Hazard in the workplace that could potentially cause bodily harm where there is employee exposure (top rail of guardrail system is missing and employees are working in the area)

**OSHI:** Occupational safety and health investigator

**Performance survey:** Phone interview with applicant about its safety program, following the Safety Training and Evaluation Process (STEP) submittal form to determine Level 1 or 2.

**Programmed inspection:** An inspection aimed at high-risk areas determined by MNOSHA's targeting and priority methods, based on factors such as workers' compensation claims or current special emphasis programs

**Qualifying inspection:** A jobsite inspection to determine degrees of excellence for the level the applicant is seeking. (Level 2)

**Unprogrammed inspection:** An inspection performed in response to a report of imminent danger, a fatality or catastrophe or a formal complaint

# Definitions of program award levels of participation

**Level 1:** The basic level in the **partnership program** for applicants wanting to meet the minimum requirements of a safety and health program.

**Level 2:** The intermediate level in the **partnership program** for applicants desiring a more comprehensive safety and health program.

**Level 3:** The peak level in the **partnership program** for applicants striving to be an industry leader with a very comprehensive safety and health program. Level 3 is site-specific compliance assistance with MNOSHA's cooperative compliance partnership program (CCP). Level 3 sites will follow the MNOSHA Cooperative Compliance Partnership agreement.

# **Minnesota Chapter of ABC and Minnesota OSHA's Partnership Program**

## **I. Partnership background**

In October 2004, the Minnesota Chapter of the Associated Builder and Contractors (MN ABC) and Minnesota Occupational Safety and Health Administration (MNOSHA) met to discuss a partnership charter that mutually recognizes the importance of providing a safe and healthful work environment in the construction industry, in addition to formalizing a long-standing relationship between the two organizations. To advance a mutual goal, they strongly agreed on the need to develop a working relationship that creates mutual trust and respect for the respective roles of each organization in the construction safety process. The partnership agreement is the basis for this local agreement. The Safety Training and Evaluation Process (STEP) has been used as a basis for contractor evaluation. Revisions to this partnership were made in July 2015.

## **II. Minnesota partnership**

### **1. Program expectations**

This partnership agreement has been negotiated between MN ABC and MNOSHA. Owners, association members and labor are encouraged to endorse and participate as signatory partners in this partnership program. The agreement pertains specifically to construction sites and does not apply to contractor yards, shops or administrative offices.

- A. Implementation of this program is expected to result in decreased serious injuries, illnesses and fatalities for participating contractors, and the improvement of existing safety and health programs within the state of Minnesota.
- B. This agreement provides for incentives to construction contractors that voluntarily participate in the program and demonstrate implementation of effective safety and health programs.
- C. This agreement will not in any way affect the employer's or the employees' ability to exercise their rights under the OSH Act and OSHA/MNOSHA regulations.

### **2. Specific goals of the partnership**

- A. To reduce by 3 percent annually (see MNOSHA's strategic plan) the number of injuries, illnesses and fatalities affecting participant employers, with a focus on eliminating injuries and fatalities resulting from those hazards that are the four leading causes of death on construction sites (falls, struck-by, caught in/or between and electrocutions).
- B. To increase the number of construction contractors that implement effective safety and health programs and provide effective safety and health training for management, supervisors and employees.
- C. To recognize those contractors where managers and employees work together to develop safety and health management systems that go beyond basic compliance with all applicable OSHA standards and result in immediate and long-term prevention of job-related injuries and illnesses.
- D. To promote open lines of communication between MNOSHA and the construction industry in pursuit of safety.

### **3. Program implementation**

When a partnership has been established between MN ABC and MNOSHA, the MN ABC safety and health committee or designated representatives will inform individual members who have successfully completed the application process and are eligible for participation in the partnership. MN ABC will then notify MNOSHA of the qualified contractors; MNOSHA will send a letter congratulating the applicant as a participant.

### **4. Approval presentation**

Upon a partnering contractor's approval into Level 1, Level 2 or Level 3, MN ABC will send the MNOSHA partnership coordinator a qualifying letter or application for a Level 3 site.

A. Level 1 and Level 2 companies

- 1) The MNOSHA director will send a letter to the company acknowledging their participation in the partnership program.
- 2) MN ABC may consult with the MNOSHA partnership coordinator for assistance with a news release.
- 3) The MNOSHA partnership coordinator will add the partnering contractor's names to the DLI web page.

B. Level 3 jobsites

- 1) The DLI commissioner or the highest level representative available will sign the CCP agreement at the Level 3 jobsites or the contractor's office.
- 2) MN ABC may consult with the MNOSHA partnership coordinator for assistance with a news release.
- 3) The MNOSHA partnership coordinator will add the Level 3 jobsite to the DLI web page.

C. The MNOSHA partnership coordinator will contact DLI's Communications director and request a news release.

**5. Eligibility requirements for the multi-step Partnership program: Level 1, Level 2 and Level 3.**

A. The ABC STEP program will be used as a basis for determining the three levels: Level 1, Level 2 and Level 3.

B. Partnership applications may be submitted at any time throughout the year. Eligibility status must be renewed every February by MN ABC. The process for new and renewal of applicants follows.

- 1) Complete the STEP application form. The first part of the form requests data from the summary of the contractor's OSHA Form 300 Log of Work-Related Injuries and Illnesses. The second part of the form is a self-audit evaluation checklist, which will require applicants to answer a series of questions related to their safety program.
- 2) MN ABC will administer the application, review the required program documents and approve or reject each application. The application consists of the application form, self-audit worksheet and supporting company documents. MNOSHA will serve in an advisory capacity.
- 3) Entry into Level 1 or Level 2 is based on the company being able to answer "yes" to all of the questions on the self-audit evaluation. To determine the contractor's level of eligibility, the contractor must provide MN ABC evidence of conformance with each requirement for each level.
- 4) Participation in Level 3, MNOSHA's Cooperative Compliance Partnership (CCP) program, will be open to those contractors that have achieved and participated at Level 2 for at least one year and will be site specific. Site selection will be mutually agreed upon between MNOSHA Compliance and MN ABC.

C. **Level 1:** Applicants seeking Level 1 status must meet the following requirements.

- 1) Develop and implement a comprehensive written safety and health program based on the ANSI A10.38-2000 Guidelines or the OSHA 1989 Safety and Health Program Management Guidelines; it must include a written A Workplace Accident and Injury Reduction (AWAIR) program and Employee Right-to-Know (ERTK) program. The written program shall incorporate in its entirety 29 CFR 1926 Subpart C of the General Safety & Health Provisions. For the purpose of evaluating the implementation of safety programs for existing and prospective program participants, this program allows MN ABC designated representative(s) access to project sites throughout Minnesota. Coordination for visits will be made initially with the contractor's partnership contact and, thereafter, with the project superintendent and/or foreman.
- 2) Assign at least one *trained person* with responsibility for employee safety to administer the participant's safety and health program and to conduct documented safety and health inspections of ongoing work. A trained employee is one who has completed a 30-hour construction training course or safety training equivalent to the 30-hour course within the first 12 months of joining the partnership. Documented ongoing use of a safety consultant or MNOSHA Workplace Safety Consultation may satisfy this requirement.
- 3) Conduct an orientation of all new employees in the safety and health program of the company and show evidence of effective employee training for avoidance of hazards specific to the contractor's worksite(s); for example, pairing veteran workers (as mentors) with workers new to the construction industry.
- 4) Conduct and document weekly employee safety meetings.
- 5) Conduct and document site safety inspections. Site safety inspections must be conducted as often as needed to assure safety, but for the purposes of this partnership, audits must be documented on at least a weekly basis. The size of the job will dictate whether more frequent documentation is needed. This requirement applies to the general contractor, subcontractor and tier subcontractors.
- 6) Develop, implement and maintain a prohibited substance policy and testing program that complies with applicable laws, statutes and agreements. A state-licensed employee assistance program shall be available to any employee covered by the testing program.
- 7) Implement a six-foot fall-protection policy for work governed by OSHA Standards for Construction 1926, Subparts L, M and R.
- 8) Have no willful violations that became final in the past three years.
- 9) Have no fatalities or catastrophes within the past three years that resulted in serious or willful citations related to the incident.
- 10) Receive a jobsite review by MN ABC representatives.
- 11) Show documentation of employee involvement in the safety and health program. A safety committee, comprising company employees and management, or participation of employees in self-audits, site inspections, job hazard analysis, safety and health program reviews, safety training and incident near-miss or accident investigations would be acceptable.

12. Submit annual activity reports to MN ABC.

D. **Level 2:** Applicants seeking Level 2 status must meet the following requirements.

- 1) Develop and implement a comprehensive written safety and health program based on the ANSI A10.38-2000 Guidelines or the OSHA 1989 Safety and Health Program Management Guidelines; it must include a written A Workplace Accident and Injury Reduction (AWAIR) program and Employee Right-to-Know (ERTK) program. The written program shall incorporate in its entirety 29 CFR 1926 Subpart C of the General Safety & Health Provisions. For the purpose of evaluating the implementation of safety programs for existing and prospective program participants, this program allows MN ABC designated representative(s) access to project sites throughout Minnesota. Coordination for visits will be made initially with the contractor's partnership contact and, thereafter, with the project superintendent and/or foreman.
- 2) Assign at least *one trained person* with responsibility for employee safety to administer the participant's safety and health program and to conduct documented safety and health inspections of ongoing work. A trained employee is one who has completed a 30-hour construction training course or safety training equivalent to the 30-hour course. This employee must be dedicated to safety for at least 50 percent of their time; documented ongoing use of a safety consultant may satisfy this requirement.
- 3) Conduct an orientation of all new employees in the safety and health program of the company and show evidence of effective employee training for avoidance of hazards specific to the contractor's worksite(s); for example, pairing veteran workers (as mentors) with workers new to the construction industry.
- 4) Conduct and document weekly employee safety meetings.
- 5) Conduct and document site safety inspections. Site safety inspections must be conducted as often as needed to assure safety, but for the purposes of this partnership, audits must be documented on at least a weekly basis. The size of the job will dictate whether more frequent documentation is needed. This requirement applies to the general contractor, subcontractor and tier subcontractors.
- 6) Develop, implement and maintain a prohibited substance policy and testing program that complies with applicable laws, statutes and agreements. A state-licensed employee assistance program shall be available to any employee covered by the testing program.
- 7) Implement a six-foot fall-protection policy for all subparts/exposures from the OSHA 1926 standard.
- 8) Have no willful violations that became final in the past three years.
- 9) Have no repeat violations that became final in the past three years.
- 10) Have no fatalities or catastrophes within the past three years that resulted in serious or willful citations related to the incident.
- 11) Receive a qualifying inspection of at least one representative jobsite by the MN ABC association representative(s).

- 12) Show documentation of employee involvement in the safety and health program. A safety committee, comprising company employees and management, or participation of employees in self-audits, site inspections, job hazard analysis, safety and health program reviews, safety training and incident near-miss or accident investigations would be acceptable.
- 13) Maintain a total case injury/illness incidence rate (three-year average) that is below the most current Bureau of Labor Statistics, state of Minnesota rate for the applicant's three-digit North American Industrial Classification System (NAICS) code. The most recent numbers will usually be those from the previous calendar year.
- 14) Train all *field construction supervisory personnel* (defined as anyone in the field who is authorized to assign or make decisions about the work). All personnel meeting this definition must complete the OSHA 10-hour course in construction or equivalent.
- 15) Submit annual activity reports to MN ABC.

**Table 1**

| Summary of partnership requirements                                    | Level 1 | Level 2 |
|--|---------|---------|
| 1. Comprehensive safety and health program                             | X       | X       |
| 2. Safety and health program administrator                             | X       | X       |
| 3. New-employee orientation  | X       | X       |
| 4. Weekly safety meetings  | X       | X       |
| 5. Weekly site safety inspections                                      | X       | X       |
| 6. Prohibited substance policy   | X       | X       |
| 7. Six-foot fall-protection policy                                     | X       | X       |
| 8. No willful violations within past three years                       | X       | X       |
| 9. No repeat violations within past three years                        |         | X       |
| 10. No fatalities/catastrophes with violations within past three years | X       | X       |
| 11. Jobsite review by MN ABC representative(s)                         | X       |         |
| 12. Qualifying inspection by MN ABC representative(s)                  |         | X       |
| 13. Employee involvement   | X       | X       |
| 14. Incident rate below BLS (three-year average)                       |         | X       |
| 15. OSHA 10-hour course for field supervisors                          |         | X       |
| 16. Submit annual activity report (STEP) to MN ABC                     | X       | X       |

E. Level 3: Applicants seeking Level 3 status, refer to the MNOSHA CCP Program requirements.

## 6. Program confidentiality

Information submitted by contractors as part of the application or renewal process, as well as information obtained by virtue of the contractor's application or participation in the program, will be held in strict confidence within the confines of the MN ABC and MNOSHA partnership program. The information will be used only to measure the effectiveness of the partnership program. However, in the event of a MNOSHA inspection, information that is relevant to the investigation and normally is available (such as company safety programs) will be provided to MNOSHA upon request. Results of self-audits made by the applicant cannot be used for the purposes of issuing citations.

## 7. Program oversight

A. The MN ABC designated representative is responsible for the following program monitoring activities:

- 1) As required above, review of participatory firm's activities to ensure compliance with the partnership requirements, including random on-site visits of participant contractor worksites; and
- 2) Recommendations to MN ABC for program improvements.

## 8. Incentives

Upon acceptance as an MN ABC partnership participant, MNOSHA will provide certain incentives to participants.

A. Level 1 participants:

- 1) will be given special written recognition from MNOSHA and MN ABC designating the contractor as a Level 1 participant in this partnership program; and
- 2) will not receive a penalty assessment for citations related to non-serious violations, provided the hazards are abated within MNOSHA's prescribed abatement period.

B. Level 2 participants:

- 1) will be given special written recognition from MNOSHA and MN ABC designating the contractor as a Level 2 participant in this partnership program;
- 2) will not receive citations for non-serious violations, provided the hazards are abated within MNOSHA's prescribed abatement period;
- 3) will be given the maximum good faith penalty reductions (currently 30 percent) available under the existing MNOSHA penalty credit policy (MNOSHA's penalty credit policy will be made available to partnership participants); and
- 4) will be offered the following options if they receive serious citations *that settle as non-serious citations during an informal conference* (according to MNOSHA existing practices).
  - a. The employer may accept the non-serious rating and pay the penalty. *The non-serious rating will stay on the company's record.*

- b. The employer may accept the non-serious rating and use the penalty dollars toward the retraining of its hourly employees about the specific issues regarding the citation. *The non-serious rating will stay on the company's record.*
- c. The employer may choose to train *all of its supervisory level employees* about the specific issues regarding the citation, within an agreed upon time period. The employer would then provide to the MNOSHA principal/IH3:
  - i. documentation of the training (including topic, training roster, date of training and the name of the training provider);
  - ii. documentation of how the company follows the procedures outlined in the company's AWAIR program, including –
    - identification of company goals and objectives,
    - company's roles and responsibilities,
    - methods of hazard identification/analysis and control,
    - methods of communication,
    - how accidents will be communicated,
    - how the safety and health programs will be enforced,
    - disciplinary actions and
    - how the programs will be reviewed and how safety committees are operating within the company; and
  - iii. when the employer has provided this documentation, the non-serious citation and penalty will be rescinded from the company's record.

**Table 2**

| Summary of partnership incentives                                      | Level 1 | Level 2 | Level 3 |
|--|---------|---------|---------|
| 1. Receives written recognition by MN ABC and MNOSHA                   | X       | X       | X       |
| 2. No penalty for non-serious violations                               | X       | X       | X       |
| 3. Increased communication with MNOSHA through partnering              | X       | X       | X       |
| 4. Receives maximum good faith penalty reductions                      |         | X       | X       |
| 5. Possible consideration as "best value" contractor                   |         | X       | X       |
| 6. After one year Level 2, qualifies for MNOSHA CCP program            |         | X       | X       |
| 7. On-site compliance assistance provided by MNOSHA Compliance         |         |         | X       |
| 8. No citations for hazards abated immediately during CCP site surveys |         |         | X       |

## 9. Partnership evaluation

- A. It is the responsibility of each MN ABC designated representative to gather required participant data to evaluate the overall success of the program.

- B. The partnership will be evaluated annually to determine whether the annual goal of a 3 percent reduction in the number of injuries, illnesses and fatalities as outlined in MNOSHA's strategic plan has been met. MN ABC will be responsible for collating baseline and annual performance data upon which the partnership will be measured. This aggregated data will be reported to MNOSHA annually.
- C. Participant aggregate injury/illness incidence rates (total case rates) and fatality rates will be compared with BLS published data to determine whether goals have been met at the chapter and/or national level.
- D. Participant incidence of injuries from the hazards that are the four leading causes of death on construction sites (falls, struck-by, caught in/or between and electrocutions) will be measured and compared against a baseline established in the first year of the partnership.
- E. If all *signatory partners* agree, partnership criteria may be revised annually based on recommendations for continual improvement.

#### **10. Contractor termination**

- A. A contractor's participation will be terminated by MN ABC and MNOSHA and the contractor will be informed of the termination if one or more of the following occurs.
  - 1) An inspection by MN ABC or MNOSHA reveals a significant deviation from program criteria.
  - 2) The contractor has falsified information on the application or supporting records.
  - 3) The contractor's total case injury/illness incidence rate rises above criteria set in paragraph 5.D.13 for Level 2 participants (in certain cases, when agreed upon by both MN ABC and MNOSHA, the contractor may be reclassified to a lower level).
  - 4) The contractor takes other such actions that may be determined to be grounds for termination by MN ABC.
  - 5) The contractor is no longer a member in good standing with MN ABC.
- B. Prior to final termination of a contractor's status, the following will occur.
  - 1) The contractor will be notified in writing of the intent to terminate.
  - 2) The notice will include an explanation of the reasons for termination.
  - 3) The contractor will have an opportunity to reply to the written notice within a period of 30 days.
  - 4) The contractor will have the right to appeal before MN ABC.
- C. MN ABC will have the authority to reinstate the contractor if it determines the contractor's experience was unusual and not necessarily inconsistent with a sound safety and health program. In this event, another qualifying inspection may be performed.
- D. Any contractor may terminate participation in the program at any time.

## **11. Term and location of partnership**

- A. MN ABC and MNOSHA will review this partnership at least every third January (three years) after its initial partnership agreement signing. Any changes or modification will require a re-signing of the partnership agreement.
- B. Any signatory party to the partnership may withdraw from the agreement at any time after submitting written notification of intent to MN ABC and MNOSHA.