

Megachallenges: The Minnesota Ergonomics Standard of 2024

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Abstract: An uphill climb awaits those who advance compliance with the new Minnesota Ergonomics Standard, which became fully effective January 1, 2024. This law came about after years of political wrangling for a standard that began in earnest approximately 23 years ago, with roots tied loosely to the failed Federal Ergonomics standard of the outgoing Clinton administration at the time. Many employers preempted the new statute by initiating sound ergonomics into their risk control efforts years before January, 2024. That head start is needed, considering the strong elements built into this standard.

Requirements of the law dictate that Minnesota employers engaged in health care, meat processing and distribution of goods must add new or upgraded ergonomics provisions to their current initiatives. Enforcement of the new mandates resides with the Minnesota Occupational Safety and Health Administration (OSHA).

Minnesota's diversity of peoples, MSD injury frequencies, complex facilities, enforcement costs and staffing all contribute to ergonomics programming complexities. Factor in intensive employee training, all-associate participation, annual program reviews and physical plant upgrades to the mix and the ergonomics compliance process becomes more daunting. Enforcement and business representatives alike thus share compliance concerns.

Keywords: Complex, diversity, ergonomics, initiatives, history, Minnesota, OSHA, training, requirements

1. Introduction

The advent of Minnesota's new Ergonomics Standard opened officially on 01-01-2024, though in mid-2023, companies subject to the law were eligible to apply for grant money to assist in the compliance process. Statute Section 182.677 provides detailed information (<https://www.revisor.mn.gov/statutes/cite/182.677>). Lawmakers hailed this act to be sound in principle. Minnesota employers in health care, meat processing and distribution are now required to add new or (depending upon their level of implementation) upgraded ergonomics initiatives. This standard, to be enforced by the state's Occupational Safety and Health Administration (OSHA), requires a written program ([MNOSHA Compliance: Ergonomics FAQs | Minnesota Department of Labor and Industry](#)) and makes Minnesota the nation's frontrunner with regard to ergonomics enforcement. This ergonomics statute is a comprehensive mandate that will challenge every employer subject to it. While the law's intent is appropriate, it contains hurdles to smooth implementation.

An ergonomics standard here was overdue yet presents a dichotomy. First, political parties disputed when would be a good time to formalize ergonomics in Minnesota. No more. The intense diversity of this state's peoples, languages and customs suggest coordination of ergonomics to be vital. Its focus on health care, meat processing and distribution operations is driven by injury frequencies therein and industries where prescriptive ergonomics would likely do best, applied to injury prevention.

Secondly—and a factor apparently voting lawmakers paid little heed to—is the fact that most of this state's employers developed respectable records in taking the initiative to reduce injuries in their work environments. These same employers in particular addressed musculoskeletal disorders, the focus of this new Minnesota standard. So, why would the state force compliance when outliers that fight safety and ergonomics upgrades are a diminishing few? Some would argue the new standard is politically motivated, centered within one party that achieved a control trifecta (offices of governor, senate and house) in recent years and then drove unnecessary legislation. Time will eventually sort out that reveal.

Meanwhile, employers can agree that soundness in ergonomics principle does not necessarily equate to ease of implementation. This legislation may prove to be one of the more difficult and perhaps the costliest ever implemented for preservation of worker safety, at least in Minnesota. Expediting (call it 'hurrying') a process that has already been well engaged will spike operational costs, eventually cascading to consumers. These new state ergonomics requirements may be a

bellwether for other state OSHA programs to begin their own programs. Indeed, OSHA has already fielded calls originating outside the state, inquiring about Minnesota's ergonomics enforcement aspects.

2. Wide-Ranging Impact

Meanwhile, how far-reaching is the effect of the MN Ergonomics Standard? Every out-of-state corporation with satellite operations or divisions in Minnesota, meeting the criteria noted, will be required to comply with this new statute. Yes, this scenario appears to be getting bigger all the time. To gain insight on how Minnesota OSHA would deal with this large new initiative, contact was established with the MN DOL months before implementation kick-off ([Minnesota OSHA Compliance | Minnesota Department of Labor and Industry \(mn.gov\)](#)). The anonymous compliance officer volunteered as an insider viewing the statute and revealed Minnesota:

- Had no plan regarding compliance enforcement
- Did not have staff to handle anticipated inspections
- Was working on staffing up, in order to add personnel to enforce the new standard
- Was not prepared for the law to go into effect

To obtain updates on the enforcement process and gain wrap-up insights for this presentation, contact was again established with MN OSHA ([Minnesota OSHA Compliance | Minnesota Department of Labor and Industry \(mn.gov\)](#)) in May this year. Giving reasons the information was important, basic questions were posed. It was soon clear that this contact individual was unable to provide satisfactory answers either.

3. Transparency Resurrected

The Minnesota respondent suggested we e-mail MN OSHA with questions pertinent to the Ergonomics Standard. The original list of questions was expanded broadly, directly relating to the new statute, compliance, findings and the like. The promised transparency of this administration ultimately came through when the MN OSHA Director called personally to discuss our questions and concerns (Jim Krueger, personal communication, 06-17-2024).

In working with OSHA agencies across the country, excellent interchange is typically experienced. Ultimately it proved to be so with Minnesota as well, yet many facets of enforcement are still open-ended because of its freshness.

As professionals who follow multi-disciplinary risk control, we're used to advance notifications about public comment for significant law changes, new legislation that could impact worker safety, changes in the Federal Register. Notification may have occurred, though it was not widely publicized. First formal notifications about the ergonomics law came through local news outlets, revealing its passage (www.minnesotareformer.com).

4. Selective Enforcement

Fixing injury problems—like longer-developing musculoskeletal disorder (MSD) types targeted by the statute such as shoulder tendonitis, hyperextended fingers, tennis elbow, the infamous carpal tunnel syndrome and others—is important and essential. But where do affected firms begin the process?

For starters, all Minnesota employers in health care, and those in distribution and meat processing with over 100 employees are expected to have a plan and begin to implement it by the first of 2024. Some began before 2024. I've provided consulting services to companies who began early. To their credit, they gained a head start. And as we'll see shortly, ergonomics compliance will require every advantage companies can muster. Others are pondering how to begin.

5. Historical Lessons

Before examining details of the statute, a bit of history is needed. In the Midwest region, OSHA (both Federal and State plans) began pushing an ergonomics agenda through the General Duty Clause well over a decade ago. They tested the process with large, visible firms hoping to set the stage for bigger ergonomics ‘harvests.’ Lacking specific ergonomics standards back then, the enforcement process did not go well for several jurisdictions that tried it. In at least four jurisdictions, OSHA failed to laser in on what they deemed ‘problem operations’ and make resulting citations stick. Regulators’ approaches were onerous and lacked specifics for appropriate citations.

Borrowing examples from Midwest experiences outside Minnesota, OSHA in one case attempted to badger a nationwide retailer into automating its distribution centers (DCs) in order to mitigate alleged ergonomics shortcomings. The citation was in jeopardy after I proved to the defendant’s labor law attorney that OSHA’s supporting forensics were invalid—and that the DC was following conventional practices in their daily activities. Nothing in the DC protocol was either unusual or unusually hazardous. Thus, the distribution center citation was vacated. There’s more to the story.

A colleague and I spoke about OSHA’s pressures to drive ergonomics to higher levels in our region. The anonymous employer had an almost identical issue with OSHA’s citation issued for their DC business. The Safety Director took a different approach than the previous out-of-state firm and decided to go along with OSHA, rather than push back. In essence, he dealt with their main grocery distribution center by acquiescing to OSHA. The regulators’ idea was to see this highly recognizable firm automate the distribution facility, something the compliance body is specifically precluded from doing. Unfortunately, OSHA often tries to push a particular solution, anyway. The company in question opted to go forward with the regulator’s suggestion, a massive, costly upgrade. The firm reasoned that payback would eventually make this a cost-effective move. They were wrong. A cost-benefit analysis was never completed. Latest reports on that firm indicated they were facing bankruptcy, in part because of a massive capital investment in distribution center automation.

6. Implementation Challenges

In review of Minnesota’s demographics, the influx of diverse groups portended a larger burden for the MN Workers’ Compensation system and medical facilities treating work related injuries. This state boasts a wide-ranging, diverse employee base, due to its being one of the largest food processing job markets in the country. As such, with unprecedented numbers of unskilled workers populating state workplaces, and many such individuals having third-world backgrounds and non-English speaking or writing capability, training diverse folk in ergonomics should help stem the tide of potential MSDs. In that sense Minnesota employers in these target industries—and ultimately an expanding universe of them in other states—will find a continued bolstering of ergonomics to be crucial.

7. The Ergonomics Statute

Affected business persons will correctly attest that this regulation is going to be difficult to implement, in spite of the fundamental principles upon which it is based. Minnesota businesses will feel a profound financial impact for years to come, as will consumers experiencing the corresponding increased costs of their goods and services.

Here are components of the Minnesota Ergonomics mandates:

1. Written Ergonomics program
2. Administrative or engineering controls to mitigate hazards
3. Annual review of the ergonomics program—and when changes occur
4. Comprehensive employee training annually—and when updates occur
5. Employee involvement
6. Updates for existing AWAIR written programs to reference the ergonomics program
7. Recordkeeping for MSDs (but not using the OSHA 300 log; it’s precluded by the statute)
8. Records availability and maintenance
9. Barrier-free reporting of injuries, hazards or safety/health violations
10. No-cost access to available ergonomics training materials through MN OSHA
11. Grants available to employers subject to the law, matching up to \$10,000 (became effective 7-1-2023).

It's worth noting that the annual review of programs referenced above comes with an interesting twist. Nowhere in the ergonomics statute is there a requirement for mandated program development or review by a Certified Professional Ergonomist (CPE); however, it does appear in another law that also became effective 01/01/2024 out of the Department of Labor and Industry (DLI). That element is in 179.87, "Safe Workplaces for Meat and Poultry Processing Workers Act," Section 7, Subdivision 1. The DLI provision calls for a CPE to serve as a committee member of a company seeking to develop and implement ergonomics programming—or be part of a reviewing body on the initial program review—prior to implementation—and annually thereafter. This onerous surprise was made known to us by a confidential client. It isn't a stretch to wonder about the disingenuous nature of mandatory CPE involvement, based in a law apart from the ergonomics mandate, that directly impacts ergonomics compliance. Furthermore, requiring a CPE's participation in the enforcement process smacks of government overreach, limiting the nature of free enterprise. Moreover, fellows in our discipline are not in favor of advancing their internal business revenues because of bureaucratic requirements.

In addition to major tenets of the ergonomics statute, employers will face challenges in securing capital for improvements, but perhaps none more significant than will occur for training staff in ergonomics.

8. Training Material Enigma

Minnesota appears to be altruistic by providing free ergonomics training materials for companies, to assist in compliance. A host of prepared educational materials appear on Minnesota's Department of Labor and Industry website (<https://www.dli.mn.gov/business/workplace-safety-and-health/mnosh-compliance-ergonomics>). At least 28 sites are active; however, some of them are far outdated. That fact in itself is not necessarily an issue if the material is factually sound; however, random checks of several courses revealed erroneous material that would be summarily rejected by ergonomics and safety professionals who demand reliable education for clients and associates. As a consequence, companies desiring to educate their staff and associates will need to build their own material internally; that is, if their people are capable of doing so. Alternatively, a third party will need to either be engaged to assist in screening and/or updating Minnesota's Ergonomics training materials—or rely on a competent, board-certified Ergonomics professional to build the internal educational system. MN OSHA's Director was not aware of the training material discrepancy when we discussed the subject (Jim Krueger, personal communication, 06-17-2024), but acknowledged that the issue required review.

Next, training components include a requirement for educating workers in a language they understand. This factor concerns Human Resources and other staff because, as we've already seen, today's workforces are more diverse than ever. A comparison of recent history to today's workplace will illustrate the complexities faced in training contemporary workforces.

Educating diverse workers was readily achieved in a client's food processing plant 15 years ago. That operation had but three languages to work with, and their translators were bilingual. In the same time frame, another client, a heavy manufacturing firm employed workers from Eastern Europe to Mexico, and points between, sporting 16 different languages. The latter group's language barriers were handled by each ethnic group, and every assisting translator had bilingual skills. It was a workable, effective process to train everyone.

Fast forward to today, in a more complex scenario. A Minnesota food processing facility we're working with deals with multiple languages from ethnic groups originating in Somalia, Vietnam, Central America and beyond. Multiple issues abound with their need to train associates in ergonomics, and be understandable for each group, each person. The number of languages in their facility is not just about an identifiable language; it's about matching correct dialects and in some cases, attempting to illustrate words that simply do not exist in the particular ethnic group's originating country.

Then, there's the ruggedness of work some employees grew up in, where difficult tasks are accomplished in cultures where it is expected and ordinary in their respective countries. The people must first be convinced that work during production tasks creates unexpected trauma and stressors that must be guarded against. Couple these elements with aging workforces, and risk control processes continually face that uphill climb. After that, training can be administered to the new workers, but it continues as an ongoing process in these often-intense stateside work environments.

Examples cited are just some of the challenges that well illustrate differences between recent history and the new world of ergonomics, human factors and safety enforcement. With more diversity comes added complexity to implement each element, and a need for new tools to assist in advancing these proceedings. Modern safety and ergonomics practitioners face integrating their disciplines with apt attention to educators' challenges when clarifying and simplifying major issues involved in advancing employee safekeeping. This action is bound to occur more than ever with people who see new work, policies and machinery, often for the first time ever.

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