

Meeting Minutes
The Maritime Advisory Committee for Occupational Safety and Health (MACOSH)
April 29, 2010

The Maritime Advisory Committee for Occupational Safety and Health convened its fifth meeting under the current charter at 8:30 A.M. on April 29, 2010, at the Newport Marriott Hotel, 25 America's Cup Avenue, Newport, RI 02840. The meeting adjourned at 2:50 P.M.

In accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, the full Committee meeting and the workgroup meetings held on April 27 and 29, 2010, were open to the public.

Committee members present:

James Thornton, Chairman - Northrop Grumman Shipbuilding, Newport News
Stewart Adams - U.S. Department of the Navy
Alan Davis - American Seafoods Company
Alton H. Glass, Sr. - United Steelworkers
Lesley E. Johnson - International Brotherhood of Electrical Workers
Kenneth Killough - South Carolina Stevedores Association
Charles Lemon - Washington State Department of Labor and Industries
Jennifer Lincoln - NIOSH
George Lynch - International Longshoremen's Association
Marc MacDonald - Pacific Maritime Association
Tim Podue - International Longshore and Warehouse Union
Donald V. Raffo - General Dynamics
Barry Richardson - The Columbia Group
Kenneth A. Smith - U.S. Coast Guard

OSHA Committee Staff in attendance:

Joseph V. Daddura, Designated Federal Official
Susan Brinkerhoff, Counsel
Veneta Chatmon, OSHA Exhibits Manager
Christie Garner, Administrative Assistant
Amy Wangdahl, Shipyard Workgroup Representative
Vanessa Welch, Longshore Workgroup Representative

Staff of the Occupational Safety and Health Administration in attendance:

Steve Butler, Director, Office of Maritime Compliance
Paul Comolli, Office of Maritime, Directorate of Enforcement Programs
David Doucet, Compliance Officer, Region VI
Leo Edwards, Area Director, Region III
Deborah Gabry, Directorate of Technical Support and Emergency Management

Jim Maddux, Deputy Director, Office of Maritime Standards
Katie Nishimura, Compliance Officer, Region I
Phil Peist, Compliance Officer, Region II
John Vos, Compliance Officer, Region IV
Jack Reich, Compliance Officer, Region IX
Randy White, Area Director, Region X

Members of the Public in attendance:

Tracy Burchett, International Longshore and Warehouse Union, Coast Safety Committee
Adrian Diaz, International Longshore and Warehouse Union, Virginia
Jeff Facenda, Metro Machine, Virginia
Pete Favazza, International Longshore and Warehouse Union, Coast Safety Committee
Kelly Garber, Eagle Marine Services, Seattle, WA
Chet Matthews, Brunswick Marine Trade Association
Bill Mutter, Navy Crane Center
Kevin Nugent, Bayonne Drydock
Polly Parks, Southern Recycling
Jeff Smith, International Longshore and Warehouse Union, Coast Safety Committee
Susan Swanton, Maine Marine Trades Association
Cameron Williams, International Longshore and Warehouse Union

Chairman Thornton announced reminders, first, that the next MACOSH meeting will be held July 13-15, 2010, in Long Beach, CA, and second, that the deadline for nominating future committee members is May 7, 2010. Roll call was taken and the public introduced themselves. A summary of the meeting agenda was given by the Chairman, followed by the committee discussion of the minutes from the previous meeting held in Washington, D.C., on January 20, 2010. The Committee unanimously approved the minutes as corrected (Pete Favazza's name was misspelled on page 10), and they were entered into the record under Docket OSHA-2010-0001 as Exhibit 15.

Opening Remarks

Jim Maddux, Acting Deputy Director
Directorate of Standards and Guidance

Mr. Maddux welcomed the Committee and public. Mr. Maddux explained that the Assistant Secretary, David Michaels, and Directorate of Standards and Guidance Director, Dorothy Dougherty, had hoped to attend the meeting but were prevented from doing so by other commitments; however, they hope to make the next MACOSH

meeting. Mr. Maddux acknowledged the tremendous amount of work that the Committee has accomplished for the Agency and thanked them for their involvement. Mr. Maddux provided the group with an agency update, discussing the implementation of policies of the new administration, one being the emphasis on standards and enforcement. He expressed that recent disasters, including the Tesoro explosion in Washington State, the mine collapse in West Virginia, and the oil rig explosion in the Gulf, highlight the importance of occupational safety and health work. In addition, Mr. Maddux talked about the Agency's aggressive regulatory agenda, which has shown an increase in funding and personnel resources. The Agency is working hard to remove certain tasks from the regulatory agenda and is placing emphasis on meeting projected deadlines on remaining tasks. This revisiting of the regulatory agenda entails the completion of standing items, the removal of projects that are not getting immediate attention, and the addition of regulations dealing with high-impact areas.

Current OSHA efforts include:

- **Hexavalent chromium.** In February of 2010, OSHA published a direct final rule for hexavalent chromium that dealt with employee notification of monitoring results. This was in response to a court remand. No significant or adverse comments were received. Therefore, it is anticipated that the Agency will announce an effective date for the standard in the coming months.
- **Beryllium.** The Agency has initiated a peer review on risk assessment and health effects associated with beryllium exposure and is in the process of selecting academics and scientists that will be involved in reviewing these highly technical sections of the standard. OSHA anticipates completion of this phase in November of 2010, at which point the Agency will publish a notice of proposed rulemaking.
- **Silica.** The Agency completed the peer review of the health effects and risk assessment sections of this proposed standard in December of 2009. OSHA is currently in the process of revising the two sections with an anticipated publication date of February 2011.
- **Construction Cranes and Derricks.** OSHA considers this rulemaking to be very important. With several crane collapses in the last few years in highly urbanized areas, significant media and congressional attention has focused on the risks involved with cranes and derricks used in the construction industry. The Agency published a proposed rule, received comments, and held public hearings on the subject. The final rule is undergoing review by OMB.

- **Hazard Communication.** OSHA published a proposed rule to update the existing hazard communication rule to be consistent with the globally harmonized system of hazard communication. Some of the changes involve adopting standardized pictograms and standardized hazard warning messages on material safety data sheets and labels.
- **Walking and Working Surfaces.** OSHA is in the process of publishing a proposed rule dealing with fall protection issues, including the use of fall protection in the absence of guardrails, stairs, ladders, and so forth. OMB recently completed its review of the proposed rule, and the Agency plans for its publication during May of 2010.
- **Combustible dust.** Last fall OSHA published an advance notice of proposed rulemaking (ANPR) on combustible dust hazards. Although the record is technically closed, OSHA continues to solicit useful information and data that will assist the Agency to fully understand the effects of a combustible dust standard in the maritime industry. The agency held stakeholder meetings across the country from which a great amount of information was gathered. The Agency is in the process of conducting site visits and research to determine the needed direction with this difficult issue. OSHA intends to initiate a small-business panel, where the public and the panel will be briefed on the Agency's thinking on what a regulation would look like and its economic impact. At that point, the panel will provide feedback to OSHA.
- **Musculoskeletal Disorders (MSD) Column.** This proposed standard, which would implement a new 300 log with an MSD column, was published in January of 2010. The comment period closed in March and a public hearing followed. OSHA is working towards publishing the final rule in July of 2010.
- **Modernization of OSHA Recordkeeping and Reporting.** This initiative takes advantage of new Internet and electronic reporting systems to upgrade our injury and illness reporting systems. Currently, employers keep records until the end of the year. Then these records are provided to OSHA or BLS, which compile the data, leaving a huge lapse of time between occurrence of an incident and its report. The Agency is inquiring as to the feasibility of a system where incidents can be reported as they occur (e.g., within a couple of days or week). The Agency intends to hold stakeholder meetings in July of 2010 to work through this issue.

Questions and Answers:

Q: Regarding the modernization of OSHA recordkeeping and reporting, Mr. MacDonald cautioned Mr. Maddux that the system developed will need to have the ability to track each incident from start to finish. Additionally, he expressed

the concern that a great deal of money has been used towards tracking systems that are already in place and that it will be a waste of money to completely scrap them.

A: Mr. Maddux thanked Mr. MacDonald for expressing his concern and discussed that it is not the Agency's intent for systems that are already in place to be scrapped, but stated that this is an item to be looked at during the stakeholder meeting held in July.

Q: Dr. Lincoln inquired how the Agency intended to regulate injury and illness prevention.

A: Mr. Maddux explained that a number of state plans have regulations for injury and illness prevention programs now, which are either mandatory or incentive-based programs. Approximately 20 of these programs exist through either their OSHA state plan or worker's compensation divisions.

He further explained that OSHA standards are only narrow slices of safety and health (e.g., requirements for guardrails on stairs or material safety data sheets for chemicals). They do not provide an overall framework of how to comply with those regulations set by OSHA from a process standpoint.

Therefore, the Agency feels that the appropriate thing to do is to set up a standardized process where employers look at their own hazards, culture, and environment and work with their employees to develop and institute solutions for hazards/problems without having a narrow OSHA standard for every hazard that exists.

Q: Mr. Adams requested that Mr. Maddux briefly describe the process of the stakeholder meetings he mentioned and how employers get involved.

A: Mr. Maddux stated that stakeholder meetings are for everyone, not just employers. The Agency's goal is to involve a broad range of people with different interests. He further explained the process, beginning with the publication of a Federal Register notice that announces to the public that OSHA plans to have one or more stakeholder meetings. In this notice, the date and location are provided, as well as information on how one can become involved. In recent planning for these meetings, the Agency has been setting up an Internet site where people can submit their requests to attend.

During the meetings, there are generally two types of participants -- (1) "table participants," who are actually engaged in the discussion, and (2) "observers," who are bystanders to the discussion. However, the meetings are very informal,

allowing the "observers" to interject at any point. The ideas or information obtained from the stakeholder meetings will be used in policy decisions in terms of what direction to go.

Q: Mr. Davis encouraged OSHA to hold meetings and hearings a little further west of the Mississippi River. He noted the challenges in today's economy for a business or an association to come up with the money to send somebody to represent them in, say, Washington or Chicago. People who are in the trenches are not going to be able to take the time out to travel extended distances.

A: Mr. Maddux acknowledged the comment.

Q: Mr. Favazza asked, in response to the discussion of the modernization of records, whether the organizations that supply the workforce will be able to access the information that is accumulated in this process.

A: Mr. Maddux responded that OSHA is working on the technological issues associated with collecting and disseminating the data and would probably like to get some input from worker representatives on these issues. He then described the kinds of questions the Agency is trying to have answered:

1. How can the collected data be used to further occupational safety and health?
2. Is there a way to provide access to a variety of users (e.g., unions, academic community, etc.)?
3. How do we protect the privacy of the injured worker?
4. Do we provide a system where workers can report their own injuries?

Q: Ms. Parks commented that the U.S. regulatory standards for ship recycling are much more stringent than the ISO approach.

A: Mr. Maddux responded to Ms. Park's concern by asking if any of the shipbreaking facilities she mentioned were certified under the ISO, to which she responded "yes" and went on to explain that MARAD worked a lot on the issue and felt that it was not the right approach to take. Mr. Maddux thanked Ms. Parks for expressing her concern and stated that he would look into the issue.

Q: Mr. Mathews asked whether the injury and illness prevention program will be mandated for all employers, regardless of size.

A: Mr. Maddux responded that that is one of the tough issues, and that you don't expect the same level, especially of paperwork and of sophistication, from small employers. He used California as an example of a model program approach. This approach allows small employers to be exempt from having to provide a written program. Also, other small employers in certain industries, such as agriculture and construction, are required to use the model program provided. This saves the employer the task of developing their own paperwork for the program. The agency intends to develop a program that small businesses can modify in a way that makes sense for them, while still protecting workers.

Q: Mr. Thornton asked, with regards to the cranes and derricks final construction standard, if there will be a construction directive that comes out fairly soon, so that the maritime industry will be able to use it for additional guidance.

A: Mr. Maddux responded that he was unaware of the timeframe in which a directive will be issued, since it is coming out of a different directorate.

The introductory remarks of Mr. Maddux were entered into the record under Docket OSHA-2010-0001 as Exhibit 16. And his PowerPoint presentation was entered into the record under Docket OSHA-2010-0001 as Exhibit 17.

Longshore Workgroup

Marc MacDonald

Workgroup Leader

Mr. MacDonald reported on the workgroup's top priorities, determined at the January 20, 2010, meeting, and their status.

- **Working on the Apron or Highline Quick Card** - This guidance highlights the dangers of working in the apron or highline in marine terminals, which is defined as the area underneath the cranes. During the January 20, 2010 meeting, this document was completed and provided to the Shipyard workgroup for review. The Shipyard workgroup provided suggested edits, which were incorporated into the document. The Committee unanimously voted in favor of accepting the document and recommending that OSHA publish it. The document entitled "Working on the Apron or Highline Traffic Lanes and Safety Zones in Marine Cargo Handling" was entered into the record under Docket OSHA-2010-0001 as Exhibit 18.
- **Speed in Terminals** - During the previous meeting held on January 20, 2010, the Longshore workgroup had a lengthy discussion about a white paper that was submitted to the workgroup dealing with controlling speed in marine terminals.

Differences of opinion existed on this topic, and there was debate on how to proceed with the paper. As a result, the Committee recommended that the workgroup revisit the topic further.

The workgroup conducted some research and noted that some language could be incorporated into the existing Traffic Safety in Marine Terminals document, which was published in 2007 and exists on the OSHA webpage. Therefore, the workgroup modified the existing OSHA guidance by adding a section entitled, "Controlling Speed." They felt that this action was a good way to address the concerns in the white paper.

The Shipyard workgroup was given the opportunity to review the document. Comments from the Shipyard workgroup were incorporated into the document. The Committee unanimously voted in favor of accepting the document and recommending that OSHA re-publish the updated document. The document entitled "Traffic Safety in Marine Terminals Guidance Document" was entered into the record under Docket OSHA-2010-0001 as Exhibit 19.

- **Stuck Cones** – Semi-automatic twist locks (also known as "cones") are used to secure stacked intermodal containers to each other while aboard a ship; they have some moving parts that can become stuck. The issue is how to get someone on top of a container safely to access the stuck cone, and then how to make sure that that person is not in the bight when the container is released. The workgroup conducted additional research and collected pictures in order to develop a guidance document, which they hope to have completed before the end of the current charter.
- **Container Rail Safety Guidance** – The workgroup is working on a complex container rail safety guidance document. Much work needs to be done to the document, and the workgroup is hoping to have it complete before the full Committee for a vote by the next MACOSH meeting.

The Committee voted in favor of accepting the workgroup report. The PowerPoint presentation entitled "Longshore Workgroup Report of April 29, 2010" was entered into the record under Docket OSHA-2010-0001 as Exhibit 20.

Remarks

Dr. Jennifer Lincoln, NIOSH
Committee Member

During the first meeting of the current charter, a question was raised involving what the committee should be focusing their attention on. Through discussion, it was determined that a good starting point would be to look at the injury and fatality data

from the maritime industry. In response to this determination, OSHA worked closely with the Bureau of Labor Statistics (BLS) to obtain injury and fatality data from the maritime industry to find out which areas needed more guidance/regulation. The data were quite cumbersome, and Committee members had a lot of questions they wanted cleared up, so they requested that a speaker from BLS address the group.

At the January 20, 2010, meeting, Janice Windau from BLS gave a presentation to the Committee, OSHA staff, and the public to try and explain the data obtained from the maritime industry. Although this presentation was helpful in explaining the data, there were still a lot of questions. Therefore, MACOSH member Dr. Lincoln was asked to compile the BLS presentation and data into a white paper that explains how to use injury and fatality data for action.

A white paper entitled "Using Fatality Data for Action" was drafted by Dr. Lincoln. During her presentation, she referred to this document. She provide the group with a summary of the paper's contents, explaining that the "paper is trying to outline a process of how this committee could use the information to understand what other things we should be working on."

The first section covered surveillance. Surveillance is the ongoing and systematic collection, analysis, interpretation, and dissemination of information. Surveillance is used to describe the size and characteristics of a particular problem and to identify the populations at risk, the risk factors, the modifiable intervention points, and the trends over a period of time. Surveillance information is used to design interventions, and since surveillance is continuing, it can be used to evaluate the impact of those interventions.

Next, Dr. Lincoln went over the previously submitted BLS data and tables by defining some of the acronyms used and simplifying the form used to display the data. The data, collected from 2003 to 2008, revealed that a large number of fatalities in the shipyard industry occurred from falls, including falls from ships; struck by falling objects; and caught in or between. For the same timeframe in marine cargo-handling, the predominant fatalities were attributed to workers being struck by vehicles and falling objects.

Dr. Lincoln gave examples, using data from the fishing industry, to explain how important this type of data is in determining which safety and health areas employers, OSHA, and individuals should concentrate on. She stressed that MACOSH, in conjunction with the agency, should start to learn more about why these fatalities and hazards occur that are associated in particular with falls, contact with objects and equipment, and being struck by vehicles. Also, Dr. Lincoln suggested that, given the opportunity, the Committee should welcome additional face-to-face meetings to learn about successful programs and more information about the hazards.

The PowerPoint presentation entitled "Using Fatality Data for Action" and presented by Dr. Lincoln was entered into the record under Docket OSHA-2010-0001 as Exhibit 21. Her white paper with the same title was entered into the record under Docket OSHA-2010-0001 as Exhibit 25.

Shipyard Workgroup

Donald V. Raffo

Workgroup Leader

Mr. Raffo discussed the following top priorities of the Shipyard Workgroup, which were determined at the January 20, 2010, meeting, and their status.

- **Commercial Fishing and Confined Spaces** – The workgroup drafted a fact sheet, providing guidance on confined space safety on fishing vessels. The Longshore workgroup reviewed the document and provided recommendations, which were incorporated. The Longshore workgroup comments were presented in a document entitled "Longshore Workgroup Comments on Shipyard Workgroup Document, Confined Space Safety on Commercial Fishing Vessels." This document was entered into the record under Docket OSHA-2010-0001 as Exhibit 22. The Committee unanimously voted in favor of accepting the fact sheet and recommending that OSHA publish it. The document entitled "Confined Space Safety on Commercial Fishing Vessels" was entered into the record under Docket OSHA-2010-0001 as Exhibit 23.

A second fact sheet is in development on fall protection. This fact sheet is directed at the commercial fisheries operations, and vessel captains or masters as the target audience. It is the goal of the Shipyard workgroup to have it complete and present it before the full Committee for a vote by the next MACOSH meeting.

- **Arc-flash Safety** – Many larger ships are starting to switch over to electric systems. This change increases the risk of fatalities due to arc flashes. The workgroup drafted an arc-flash safety document to be incorporate into the upcoming SHIPS document on electrical safety. The document includes specific hazards and abatement recommendations. The workgroup's goal at the previous meeting was to present it to the full Committee for a vote; however, it was determined that the document needed further refining. The Shipyard workgroup will present a revised document, in final form, to the full Committee for a vote at the next MACOSH meeting. The draft document entitled "Arc Flash Hazards" was entered into the record under Docket OSHA-2010-0001 as Exhibit 24.

- **Scaffolding and Cranes** – The workgroup has been conducting a review of 29 CFR 1915.71 (the shipyard employment standard for scaffolds or staging) and 29 CFR 1926.550(g) (the construction standard for crane or derrick suspended personnel platforms). It is the Committee’s hope that the information obtained will help OSHA to develop a standard that is unique to the industry. The Shipyard workgroup developed a white paper with specific recommendations, which they are ready to submit to the Longshore workgroup for review and comment. It is the goal of the Shipyard workgroup to have it complete and present it to the full Committee for a vote by the next MACOSH meeting.
- **BLS Data** – The workgroup wanted to ensure they were looking in the proper work areas to see where the injuries and fatalities were in the maritime industry. At the previous meeting, held on January 20, 2010, the workgroup tasked Dr. Lincoln with developing a one-page white paper on BLS statistics on injuries in shipyard employment and advising how the information could be useful to the Committee. Dr. Lincoln completed the white paper, “Using Fatality Data for Action” (Exhibit 25 in docket OSHA-2010-0001), and presented her findings to the full Committee with the aid of a Power Point presentation (Exhibit 21). The Committee unanimously voted in favor of accepting the white paper.
- **Fact Sheets** – During the previous meeting, OSHA presented the Shipyard Workgroup with two fact sheets: one on ventilation during hot work, and one on eye protection against radiant energy while welding. The workgroup provided some initial recommendations to OSHA. The Agency incorporated the comments and resubmitted the fact sheets for review and comment. The Shipyard workgroup conducted a secondary review and provided additional recommendations. The two fact sheets are currently with the Longshore workgroup, which should be able to provide comments by the next meeting. These two fact sheets were entered into Docket OSHA-2010-0001 as Exhibit 27 (Draft Fact Sheet, “Maritime Industry -- Eye Protection against Radiant Energy for Welding and Allied Operations in Shipyard Employment, 29 CFR 1915”) and Exhibit 28 (Draft Fact Sheet, “Maritime Industry -- Ventilation for Welding and Allied Operations in Shipyard Employment, 29 CFR 1915”).
- **Shipbreaking Safety Guidance** – During the early part of 2010, OSHA published a guidance document entitled “Safe Work Practices for Shipbreaking,” which provides recommended safe practices as well as regulatory requirements for the shipbreaking industry. Following publication, several of the sections were challenged by a member of the public, Polly Parks of Southern Recycling.

This document was reviewed by MACOSH during the previous charter. The Agency has requested the Committee’s involvement in working through the areas under scrutiny. The Shipyard workgroup requested that Ms. Parks

provide them with more detailed information on the specific sections of the guidance document that she is concerned with, as well as some recommendations. With the provided information, the Committee will then begin to work through some of the issues and will contact representatives from the industry to determine what steps, if any, towards revision are necessary.

The Committee voted in favor of accepting the workgroup report. The PowerPoint presentation entitled, "Shipyard Workgroup April 29, 2010" was entered into Docket OSHA 2010-001 as Exhibit 26.

Ending Remarks

Chairman Thornton thanked the Committee members and the public for their attendance and reminded everyone of the upcoming meeting, which will take place July 13 - 15, 2010 in Long Beach, CA.

At 2:50 p.m. - Meeting adjourned

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

James Thornton, Chairman
Maritime Advisory Committee for Occupational Safety and Health

These minutes will be formally considered by the Committee at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.