

MACOSH EXECUTIVE SUMMARY

Washington, D.C

June 30 – July 1, 2004

The Holiday Inn on the Hill

415 New Jersey Avenue, N.W.

Washington, D.C. 20001

Wednesday, June 30, 2004

In attendance were members of the Committee: MACOSH Chairperson James Thornton, North Grumman Newport News Shipyard; Dan Nadeau, Bath Iron Works; James D. Burgin, National Maritime Safety Association; Captain John McNeill, Pacific Maritime Association; Captain Teresa Preston, Atlantic Marine/Alabama Shipyard; Charles I. Thompson, III, Virginia International Terminals; Stephen D. Hudock, National Institute for Occupational Safety and Health (NIOSH), DART, C-24; Captain Keith D. Cameron, U.S. Coast Guard; Michael Flynn, International Association of Machinists & Aerospace Workers; William (Chico) McGill, International Brotherhood of Electrical Workers, Local #733; and Mike Freese, International Longshore and Warehouse Union. Others present included Jim Maddux as the designated Federal Official and Susan Sherman, Committee Counsel.

James Thornton, Chairman of MACOSH extended a vote of thanks to everyone and a special thanks to the committee for their work at the full MACOSH meetings and the workgroup meetings held between full meetings.

Next, Chairman Thornton informed the full committee that some members had discussed requesting re-chartering. Chairman Thornton also informed the group that he requested Sue Sherman to look into any governing rules regarding re-chartering. Chairman Thornton asked Ms. Sherman if she was able to make any determination regarding re-chartering early. Ms. Sherman responded by stating that she checked with two sources within the Department, and apparently there is not an impediment to re-chartering early. Also, the Department has checked with the General Services Administration (GSA), the agency responsible for establishing charters. While there is no legal impediment to chartering early, the decision as to whether or not to re-charter early would rest with OSHA and the Department of Labor. However, the committee may make their wishes known at this time, or any other time. Chairman Thornton posed a motion to the committee to pursue an early application for continuance. The committee members voted unanimously in favor of pursuing an early re-charter. Chairman Thornton asked for volunteers from the committee to draft a letter to officially asking for the re-charter of MACOSH.

Next, Chairman Thornton called for approval of the minutes from the MACOSH meeting on March 3-4, 2004. There were a few amendments to the minutes: There is only one d in Mr. Hudock's name, and the opening sentence for each of the workgroups was the same for each work group. Both errors were corrected. The committee voted unanimously in favor of accepting the minutes of the meeting.

Report on Standards and Guidance by – Jim Maddux

STANDARDS PROJECTS

Subpart P – Fire Protection

- ✚ OSHA issued a proposal and about three dozen comments, and we've been working towards the final rule. The rule has gone through the OSHA and Departmental clearance process, and it's currently being reviewed by OMB.
- ✚ Chairman Thornton asked Jim Maddux when the rule would likely be implemented. Mr. Maddux responded that, if OMB takes their entire 90-day review time, which is likely considering the other work that OSHA is giving to them, it may be approved by OMB in September, and then possibly published in October.

Vertical Tandem Lifts

- ✦ OSHA has published a proposed rule.
- ✦ There were two requests for a hearing, so we re-published in the Federal Register a notice of a hearing, asking people to let us know if they wanted to participate.
- ✦ There were about a dozen individuals and groups that will be testifying at a hearing in late July.
- ✦ Several committee members inquired about the date, time, and location of the hearings for VTL's. Mr. Maddux informed the committee that the hearings would be June 29 – 30, 2004 and they will be held here in Washington, DC at the Department of Labor auditorium.
- ✦ Chairman Thornton asked Mr. Maddux how long after the hearing process would the rule be published. Mr. Maddux responded by stating that it really depended on the information placed in the docket. OSHA has at least one new issue that came up during the comment period about what types of cranes would be allowed to be used for vertical tandem lifts, and there may be other bits of new information that come up at the time of the hearing that we haven't seen before. So a lot depends on the volume of information OSHA receives and whether or not new data, analysis, new views, or new information comes forward. If not, then maybe a year or so.

General Working Conditions

- ✦ Staff is still working with our Solicitor's Office to get together final preamble language, and there are still a handful of issues that are outstanding that we have not come to agreement on. The regulatory agenda has an estimated publication date of December.
- ✦ Chairman Thornton asked Mr. Maddux if it would be fair to say that there's a real emphasis from the current administration to adhere to those kind of deadlines. Mr. Maddux responds by stating that, it's very fair to say. The agency is making a serious big effort to try and hit the marks that we publish in the regulatory agenda.

MARITIME GUIDANCE PRODUCTS

Hanging Scaffolding or Marine Hanging Staging

- ✦ Has been sent to other Directorates for clearance and maritime staff is in the process of incorporating the feedback received from various areas. Hoping to move that into OSHA's clearance process probably within about a month, and would like have it out a couple of months after that, after it goes through OSHA and DOL.

Abrasive Blasting

- ✦ We've gotten in a first draft of the document from the contractors, and we have gone through that and made revisions.
- ✦ Hopefully, in between this meeting and the next, OSHA will be able to release the draft to the Health Workgroup and get some feedback at the next full committee meeting.
- ✦ The emphasis is on substitute materials for silica and assessing the hazards caused by the various replacements.

Fall Protection on Ship Pedestals

- ✦ The agency has received a first draft from the contractor. The agency has gone through the document and performed some revisions. OSHA hopes to be able to release the document to the Container Safety Workgroup in between this meeting and the next MACOSH and receive some feedback.

- ✦ The primary recommendation is to try to encourage longshore firms and ships' owners to assure that guardrails are in place. If that is not possible, then, as required by the OSHA standards, fall protection needs to be provided.

Shipyard Ergonomics

- ✦ Information will be presented this afternoon this afternoon by Mike Seymour.

Longshoring Maintenance and Repair Training

- ✦ The agency is just starting to work on this product. There was a little bit of discussion yesterday in the workgroups with the contractor who will be writing the first draft.

Traffic Safety in Marine Terminals

- ✦ OSHA contractors are working on a first draft.
- ✦ Chairman Thornton pointed out that there may be application here not just with the marine industry, but this work may be valuable in general industry or other industries.
- ✦ Mr. Thompson asked Mr. Maddux when the contractors will have the guidance document done. Mr. Maddux responded that probably later this week. Mr. Thompson also asked if the document would be a rough draft the first time around. Mr. Maddux responded that it would be a rough draft and as soon as he receives a draft that that's in suitable condition to be released, it will be e-mailed to the workgroup.
- ✦ Captain Preston suggested if there are alliances, they set up an editorial kind of situation through their alliance and make that one of their alliance goals.

GENERAL INDUSTRY RULEMAKING

Hexavalent Chromium

- ✦ The committee made two recommendations at the last meeting regarding hexavalent chromium. The first was that the Health Workgroup would collect additional data from maritime interests and provide it to the Agency.
- ✦ OSHA received a very usable database that was placed under the agency's standard format.
- ✦ OSHA received about 300 measurements, mostly 8-hour personal samples, along with a few area samples, and some surface contamination data. The sampling focused on welding, especially on stainless steel. There were a few samples for abrasive blasting.
 - Mild steel there's still some question marks around it. The main question is there any risk involved with welding of mild steel?
 - Stainless steel information has been incorporated into the baseline exposure profile. OSHA also used the information for the baseline problems and controls. OSHA had some control information, what kind of controls were in place, so the agency also used it there.
- ✦ Chairman Thornton asked Mr. Maddux if the Agency would be open to some follow-on analysis about that data and what it means, and in particular for this industry segment. Mr. Maddux responded that the proposal is in the clearance process so it's probably not a good time to provide additional input. The best time to provide additional input is during the comment period.
- ✦ Chairman Thornton commented that the committee voted to recommend to the Agency a separate standard for the maritime industry and that some of the data may plug into the rationalization of creating a separate standard for maritime. Mr. Maddux responded that the views of this committee were given very serious consideration in the policy and decision making process. The agency will be issuing a proposed rule and asking the public to comment.

- ✦ OSHA would encourage anybody, even now, to be thinking about what is really the sensible approach for this industry that provides the same protection for workers that are doing stainless steel welding, and provide their views during the comment period.

Silica Rulemaking

- ✦ Bill Perry gave us an update at our last meeting. There are no new developments since that time. OSHA is trying to use the information from the SBREFA process to draft a proposal and is peer reviewing the risk assessment.
- ✦ Hopefully by the next MACOSH meeting, the peer review will be completed and the Agency will be deciding how to move forward based on the data received.

Subpart S – Electrical

- ✦ The comment period on that rulemaking has closed.
- ✦ The agency is in the process of trying to decide whether or not to have a hearing.

Beryllium

- ✦ There is no new information on this rulemaking. Some work being done, but it's not taking as much of a priority as chromium VI.

Assigned Protection Factors for Respirators

- ✦ A hearing was held on assigned protection factors for respirators. The agency is now receiving post-hearing briefs and post-hearing comments. The post-hearing comment period has been extended for another 30 days.
- ✦ Chairman Thornton asked Mr. Maddux to elaborate more on the issue. Mr. Maddux responded that it's a controlled negative pressure fit testing protocol. It provides an alternative methodology for fitting respirators to get a proper seal on the face.

Subpart D – Walking and Working Surfaces

- ✦ The record was re-opened and the agency received comments on specific issues. The Agency is working toward a final rule.

Standards Improvement Project

- ✦ OSHA proposed this rule a year ago, followed by a comment period and a public hearing. It's a rulemaking that revises a number of standards and makes them more consistent.

PPE Payment

- ✦ A proposal came out in 1998. The agency received comment and had a hearing, and is figuring out a sensible rule for PPE payment.
- ✦ It is expected that OSHA will reopen the record to receive comments on the tools of the trade issue. Some comments talked about people, particularly in kind of specialty trades, where PPE may be considered a “tool of the trade”.
- ✦ Captain Preston mentioned to Mr. Maddux that he had overlooked the Cranes in construction standard and how they would affect the maritime industry. Mr. Maddux responded that he would need to talk to the OSHA staff working on Cranes to see what affect if any that particular rulemaking would have on the maritime industry.

GENERAL INDUSTRY GUIDANCE PRODUCTS

Beryllium

- ✦ OSHA has a concern with beryllium because it is becoming more common in general consumer products. Then as those products get recycled, the amount of beryllium in recycled steel is creeping up and it could be in many more products.

Hazard Communications

- ✦ There is a concern with the accuracy of material safety data sheets (MSDSs) for chemicals used in the workplace.
- ✦ OSHA posted several hazard communication guidance products on the Internet website, and the agency has been accepting comment on the usefulness of those guidance products.
- ✦ There has been one congressional hearing on this issue, and OSHA is pursuing various alternatives to improve the accuracy of the MSDSs.

Silica

- ✦ OSHA would like to make sure that people who are doing a lot of dry sand blasting are aware various alternatives to silica blasting, including wet processes.

Motor Vehicle Safety

- ✦ The National Highway Transportation and Safety Administration (NHTSA) already have a guideline for employers.
- ✦ OSHA is working with NHTSA to co-produce an update of this guidance product.
- ✦ OSHA is trying to add more emphasis to work-related motor vehicle safety and the measures employers can take to reduce on-the-job crashes.

PPE for Disaster Situations

- ✦ This product is part of our homeland security efforts that you'll be hearing about tomorrow, and it's really trying to make sure that people know what kind of PPE to get in different situations and how to get it.
- ✦ Mr. Thompson asked Mr. Maddux if the guidance document is going to go with the department of transportation or will it stand alone. Mr. Maddux responded that it's certainly going to be compatible, but it's really a guidance effort and not a standard.

Explosive Dust

- ✦ OSHA is trying to raise the awareness on the part of the public about explosive dust and the various types of things that it can result in, because there's not enough knowledge out there on the issue yet.

Indoor Air Quality

- ✦ This guidance product will focus on mold issues. Captain Preston asked Mr. Maddux if he knew when the guidance document will be available, because it's an issue for some of her workers. Mr. Maddux responded that he didn't have a timetable for that particular document, but he'll see if I can find out the timetable.

Additional Issues

- ✦ Captain McNeill wanted to know why the MACOSH recommendation to develop a longshore standard that would require fall protection when employees are inside a cage being lifted by a crane doesn't show up on the regulatory agenda. Mr. Maddux responded that the agency's feeling at this time is that OSHA's regulatory agenda is pretty full and they don't have staff and resources to start this rulemaking at this time. Captain McNeill then asked if there will be a guidance document for fall protection when employees are inside a cage being lifted by a crane. Mr. Maddux responded that maybe OSHA could try to tie that in with

the pedestal lashing guideline. It's not a big enough issue to make a guideline by itself, but maybe it could be a technical information bulletin.

- ✚ Mr. Flynn asked what the legal requirements are for OSHA when they're putting together a guidance document versus a rulemaking. Mr. Maddux answered that a guidance product does not meet a number of legal requirements imposed on a standard. Mr. Flynn stated that he just wanted to get the point on the record that he is concerned that the agency will only develop guidance documents. Captain McNeill asked if it were to become a guideline, would that preclude it from becoming a rule at a later date. Mr. Maddux responded that it could still become a standard at a later time.

STATUS OF PRIOR RECOMMENDATIONS

- ✚ Health Workgroup to collect additional information data on Hexavalent Chromium (completed)
- ✚ OSHA proposed a separate hexavalent chromium rule for maritime (under consideration)
- ✚ OSHA to produce a traffic safety guidance product (in progress)
- ✚ Safety culture workgroup to conduct a pilot project with maritime interests to determine the most common root causes of maritime accidents (in progress)
- ✚ OSHA to develop a standard to require vessels to provide guardrails on platforms for longshore workers when lashing and unlashng containers and performing other work in order to reduce fall injuries (in progress)
- ✚ OSHA to develop a longshore standard requiring fall protection when employees are inside a cage being lifted by a crane (under consideration)
- ✚ OSHA to produce a guidance product for the longshore industry outlining safety and health training issues for maintenance and repair staff (in progress)
- ✚ OSHA continue to develop alliances in the maritime industry with appropriate union involvement, and MACOSH recommends that OSHA support regional alliance meetings with maritime and other interests to kind of let the different alliances network between each other and share information and ideas (in progress)
- ✚ OSHA to complete the six Safety and Health Injury Prevention Sheets currently in development, and fund additional SHIPS for the longshore industry (in progress)
- ✚ OSHA produce safety and health e-tools for the longshore industry and set aside funding to update and maintain the shipyard e-tools (in progress)

REPORT OF HEALTH WORKGROUP

By Dan Nadeau

HEXAVALENT CHROMIUM -- recommendations from the committee to strongly consider the vertical standard when you develop your standard for just the maritime industry. In addition, if there is any additional data wanted from industry on sampling of surface contaminants, please ask and we'll put together a plan while you're doing this thing.

ERGONOMICS – OSHA is currently writing the guidelines for ergonomics. OSHA received the best practices in the industry relating to ergonomics last Friday. This information is currently under review. "Shipyard Evaluation for Ergonomic Practices and Application" was submitted into the record and marked as Exhibit 1. Mr. Maddux asked Mr. Nadeau if he knew when the document would be posted on the internet. Mr. Nadeau responded that he wasn't sure, but NSRP is going to be very expedient to put that on their website.

SILICA – The work group does not have any updates on this topic.

DIESEL EXHAUST AND FUMES -- Dr. Mark Methner conducted a diesel exhaust study of a number of operators. They had personal breathing zone sampling as well as some area sampling. There are plans to conduct a second study in the Oakland area. The workgroup is still waiting for the remaining three findings. When the workgroup has the studies, they will reconvene and have discussion on that, and make a recommendation from that point. There's a possibility, next meeting, the work group could come out with those results depending on whether the industry can provide those two last studies between now and then. Mr. Flynn asked the studies become part of the record. "NIOSH Health Hazard Evaluation: Diesel Exhaust Exposure Among Longshoremen Workers at USCIN Terminals Facility," was marked and entered into the record as Exhibit 2.

BERYLLIUM -- Still caught up in review stages, so the workgroup didn't do anything more with that particular topic. Chairman Thornton asked why the committee collectively identified beryllium as a standard to pursue. Mr. Nadeau responded that the reason is because there was a standard being looked at to be written on beryllium and the committee wanted to have some say or some discussion when reviewing that and make recommendations.

HEARING LOSS -- Researchers at NIOSH are proposing to conduct a research study. This particular document focuses on a study performed on shipbuilding and maritime and the workgroup had a lot of discussion about extending that to include longshoremen as well. A one-page flyer they put together entitled, "Occupational Hearing Loss Among Maritime Workers" was marked and entered into the record as Exhibit 3.

Next, Chairman Thornton inquired about the reason, again, the committee had this particular subject on the radar screen. Mr. Freese explained that with the influx of more and bigger machinery, that it's time that they take the health hazard evaluation to see what kind of noises that workers on the waterfront were being subjected to. So, that was one of the reasons. Chairman Thornton asked the group what the next course of action for the workgroup. Mr. Nadeau responded that once the studies are complete the work group will review that data and make a recommendation to either discontinue the discussion on that topic or make a recommendation to OSHA.

RADIATION -- Vehicle and Cargo Inspection System (VACIS). There's a study going on with NIOSH, and also the ANSI committee is trying to look at what kind of exposure the people who are working around the VACIS areas are being exposed to. The workgroup wants to do, is continue looking at the study and then come back for further discussion.

AUTOMATIC EXTERNAL DEFIBRILLATORS -- The work group decided to have an open discussion that included the public on this particular matter. Mr. Nadeau suggested the document entitled "Placement of Automatic External Defibrillators within Shipyards" be placed into the docket. The document was marked for identification as Exhibit 4 and received into the record. OSHA has a technical information bulletin and a safety and health topic page on the Internet on AEDs. There are legal arguments about having these on-site, and the liability. Captain McNeill asked Susan Sherman whether or not this body (MACOSH) can hear something that is, and has been, a part of collective bargaining. Ms. Sherman responded that there is nothing in the MACOSH charter that exempts matters that have been the subject of collective bargaining.

At a later point in the meeting, Chairman Thornton called for a discussion regarding practices or uses of AEDs. Mr. Freese remarked that AEDs would be useful on the docks because they are often difficult for emergency responders to reach. Mr. Schmidt commented that the group should support all ways possible to protect the lives of the worker in the maritime situation. In addition, the committee needed to provide OSHA with the necessary documentation and make sure that we are taking the right approach, and there's a reality check here. But if there's something that can be used, the committee should look at it and be supportive, if at all possible, as a committee. Mr. Burgin agreed, however he was concerned about the fairness of something that was brought up in collective bargaining and something that was addressed at that point to be brought up before MACOSH. Captain Preston commented that AEDs are wonderful products, but she does believe that you have to be really careful when you start talking about regulating them, which might be why OSHA went the route of endorsing them, but not regulating them. Captain McNeill commented that AEDs are a great idea. However, contrary to the much popular belief, they do not cure all forms of cardiac arrest. They only work when fibrillation is actually taking place. They do not restart the heart when it has stopped, and they do not work in the case of stroke. So, their application, currently, is limited to only fibrillation.

SHIPYARD ERGONOMIC GUIDELINES

**By Mike Seymour, Director, Office of Physical Hazards
Directorate of Standards and Guidance**

- ✚ A draft of the guidance document is in review at OSHA's management. The document resembles the nursing home and grocery documents that were finalized, and the poultry document, which is also out in draft form. The document has essentially two sections.
- ✚ The first section describes a process for protecting workers from ergonomics-related injuries and risk factors, including discussion of management support and methods for engaging employees in the process. It provides guidance for training of workers, supervisors, engineers, and managers in shipyards. It talks about identifying problems and suggests methods for identifying ergonomics-related problems and associated risk factors. It talks about addressing reports of injuries and the importance of early reporting of ergonomics injuries. It talks about evaluating progress and it proposes procedures and mechanisms for gauging the effectiveness of the ergonomics process.
- ✚ The second section addresses solutions to the unique problems in the shipyard industry. OSHA addressed 42 specific activities that occur in shops, in the yard, and on board ships. The agency has something between 80 and 100 photographs that show conditions before an ergonomics solution has been implemented, and afterwards. When the review process is completed, the agency will be looking forward to getting it out for comment. Chairman Thornton asked Mr. Seymour if the guidance document was enforceable. Mr. Seymour explained that there is a disclaimer in the document that reiterates the document is not enforceable. The document is for informational purposes only.

SUBPART S - ELECTRICAL STANDARD

**By David Wallis, Director Office of Engineering Safety
Directorate of Standards and Guidance**

- ✚ OSHA published a proposal to update OSHA's electrical installation standards for general industry on April 5. Although it is a general industry standard, it does have some application to marine terminals and shipyards. The comment period on that proposal closed on June 4. OSHA received 11 written comments, 25 electronic comments, and 2 late comments. The agency received only one request for a hearing. The agency is currently discussing with that party whether or not they want to withdraw their hearing request and alternative means of providing OSHA with additional information.
- ✚ Chairman Thornton asked Mr. Wallis what happens next in the standard setting process. Mr. Wallis explained that the agency has to resolve whether or not to have a hearing or extend the comment period. If there's a hearing, it will probably be held in October, therefore there will be no need to reopen the record because there will be a post hearing comment period and interested parties will come and testify and provide us with evidence. At the time that the administrative law judge set for the record to close, the Agency would do an analysis of all the comments and evidence.

REPORT OF CONTAINER SAFETY WORKGROUP

By Captain John McNeill

- ✚ At the last meeting, the workgroup discussed the problems of pedestal lashings and identified some of the solutions. Now the workgroup addressed three other problem areas concerning lashings on container ships, which is still a major source of injury to our workers. The three areas that were addressed are:
 - (1) Problems related to the increasing height of deck loads of containers
 - (2) Problems related to areas that, by their nature, are awkward to work in, upon, or around
 - (3) Night work.
- ✚ The containers are stacked seven, and eight high and are becoming more and more common on the waterfront. The old method of using a long pole from the deck to unlock the cones prior to discharge

becomes unworkable at these heights. So what we propose to do, as far as this subject is concerned with our workgroup, is to continue to look at the problems, to continue to look at the devices which become available. Another one just became available last week. The slide show presentation on pedestal lashing presented by Mr. McNeil was marked for identification as Exhibit 5 and was received in the record.

TRAINING SECTION - OSHA REGULATIONS

By Mr. Charles Thompson

- ✚ There are four topics that are required under Part 1917 and two under Part 1918 that were not listed under the OSHA Publication 2254 Training Requirements in OSHA Standards and Training Guidelines.
- ✚ Following a short discussion, MACOSH voted to recommend that OSHA update and republish Publication 2254 Training Requirements in OSHA Standards and Training Guidelines to correct errors in the references to 29 CFR Parts 1917 and 1918 section. The document presented by Mr. Thompson was marked for identification as Exhibit 6 and was received in the record.
- ✚ The container Safety group also addressed the lack of formal safety training for mechanics on the waterfront, and provided the list to OSHA. The list are as follows: (1) Tie-off points for cranes for when mechanics are working aloft; (2) Discussion of how's, whys, what to do, and what not to do when recovering a worker who has fallen while in a harness (3) Where and when it is safe to weld.
- ✚ The committee voted to approve a recommendation that MACOSH, while recognizing the advantage of having automatic external defibrillation devices (AED's) available where medical help is not available within 3-5 minutes, also recognizes the potential liability issues which may arise in certain states if an employer were to provide such devices. MACOSH recommended that OSHA research the problem and enlist the help of the Solicitor's Office or other appropriate office within the Department of Labor to draft appropriate legislation in the form of a national "good Samaritan" statute to protect employers, employees or their agents from liability when using an AED in good faith to attempt to save the life of a cardiac victim.

REPORT OF SAFETY CULTURE WORKGROUP

By Captain Keith Cameron

- ✚ Industry must focus on the cause of an accident, not the result. The concept of this workgroup is to develop a simple system that can be used to identify safety problems and to direct the user towards the available solutions that can be implemented to correct those problems. A successful accident prevention program needs to identify the root cause or causes of the accident. It must have the means of implementing these solutions in a timely manner. It also needs to have the commitment from all levels of management, from the union leadership, and from labor in general if it is to be successful. The work group came up with a list of 10 root causes/failures. They are as follows:
 - Failure to provide adequate training
 - Failure to follow the training given
 - Failure of equipment
 - Failure to provide safe access to the work area
 - Failure to use safe access to the work area
 - Failure to provide adequate warnings of hazards to employees
 - Failure to comply with hazard warnings
 - Failure to comply with safety rules or regulations by the employer
 - Failure to comply with safety rules or regulations by the employee; and
 - Failure of the rules or regulations to cover the circumstances, and
 - Failure to act in a safe manner
- ✚ The shipyard people were also working on this project and they came up with their own list. Transfer it into the failure-type mode, it would read like this:

- Failure to use tools properly
 - Failure of tools and/or of equipment to do the job
 - Failure to provide proper maintenance and preventive maintenance;
 - Failure to use proper PPE;
 - Failure of the worker to recognize over-exertion or ergonomics stressors
 - Failure of the worker to recognize an exposure to a hazardous substance
 - Failure of engineering controls;
 - Active guard situation out of employees' control
 - Failure to follow good housekeeping rules; and
 - Undetermined root causes.
- ✚ The solutions as far as the longshore industry are concerned on the west coast. The available solutions are:
- Training. You must have a training program so that labor and management know what is expected of them in the day-to-day prevention of accidents.
 - Maintenance and Repair. You must have maintenance and repair system in place so that all of the equipment and gear used in your operation is free from defect and operates according to the manufacturer's specifications.
 - Safety Inspections and Warnings. You need an inspection system so that the work site is examined prior to, and at intervals during, the operation to identify potential hazards, and, where possible, eliminate them at that time. Having found hazards that cannot be eliminated, you must also have a system to be able to communicate warnings of these hazards to other management people and, more importantly, to the workforce.
 - Safety Code. You need a basic safety code that applies to your operation in general, and to specific hazards that occur in your workplace. It needs to set out the specifics of accident prevention and all those that are in the workforce need to follow it. It needs to identify who does what and when they do it.
 - Rulemaking Program. You must have a program that addresses new problems and hazards so that they can be evaluated and they issue and can then be included in your safety code.
 - Disciplinary Program. Last, but not least, you need a disciplinary program to ensure that people are properly trained, that they follow their training, that maintenance is properly carried out, that inspections are carried out, that warnings are given and followed, that operations are carried out as per the requirements of the safety code, and that all new hazards are addressed and included in the code.
- ✚ Mr. Flynn commented that when you get down to the bottom where it says "discipline," I have a big problem with that. It can be taken so many different ways and interpreted so many different ways, that I believe it could sabotage this product for our members. I don't want to see a good piece of work just get laid aside because it has it in there, and there are supervisors that would take advantage of it and move it to other places within that body. The workgroup has not brought a product for the entire committee to consider and take action on at this time. Captain McNeill's power point presentation of the root cause presentation was marked for identification as Exhibit 7 and was received in the record.
- ✚ Next, Captain McNeill showed a DVD on a lashing device. The idea is so you don't have to send workers up on top of containers to lean over and use poles to unlock twist-locks. What happens is, one lasher goes into each end of the armored door, closes the door. This works for 20-, 40-, 48-, and 44-foot containers, and anything in between. The DVD presented by Captain McNeill was marked for identification as Exhibit 8 and was received in the record.

REPORT OF TRAFFIC SAFETY WORKGROUP
By James Burgin

- ✚ The workgroup identified the scope of vehicular equipment used in shipyards, marine terminals, and on vessels. We took a look at every type of equipment that we used, and what are the problem areas with each type of equipment. We also reviewed accident occurrences for vehicle-related accidents in shipyards and in marine cargo handling. We took a look at a lot of accounts of accidents early on to determine where the

problems were occurring. Some of those occurrences include pedestrians. The workgroup identified root causes yesterday that lead to these accidents and identified the issues that occur. The issues are:

- The new terminals have a longer distance to travel, which can lead to greater speeds.
- Bigger cargo handling-type equipment
- Smooth surfaces, is what we've focused on a lot, which is great for efficiency, but it can also lead to other problems as well. The workgroup, again, would recommend to OSHA that an industry guidance document be produced to communicate the accident prevention methods discussed by the workgroup. We also recommend to OSHA that an e-tool program be made to more effectively illustrate the accident prevention programs and methods.

✚ The recommendation is that the traffic safety workgroup continue working toward a guidance document at this stage. Mr. McGill asked Mr. Burgin are there restrictions, is there anything that foreign outside truckers are required to do with their vehicles that are the same as the laws we have here in the United States, or what. Mr. Burgin responded that terminals give them specific rules when they come in the gate about how to drive on the terminal. In some cases, it's hard to govern and hard to make the outside truckers comply. The traffic safety workgroup discussion concluded.

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Thursday July 1, 2004

ENFORCEMENT UPDATE

By Tom Galassi

- ✚ Last year OSHA did over 39,000 inspections, and the agency is on track to meet that number this year. According to the shipyard and marine cargo handling data there has been about 400 inspections in those industries every year. So far OSHA has done 304 this year. At that pace, there will be about 450 inspections, which represents about a little over 1 percent of the agency's total. During Mr. Galassi's presentation, Ms. Sherman asked Mr. Galassi to comment on the change between programmed and unprogrammed inspections. Mr. Galassi explained that OSHA implemented a phone and fax process, which means OSHA doesn't have to go out on every complaint if it's of a certain category. Obviously if the complaint warrants OSHA to go out, they go out. The agency has seen an increase in the number of inspections, and the increase has been primary in programmed inspections. Next, Ms. Sherman asked Mr. Galassi to explain what (SSTs) are for the record. Mr. Galassi responded that it SST stands for the Site Specific Targeting Program. There are more targeting systems for the maritime industry. The agency will do approximately 66 maritime SST inspections this year. This is a listing of the non-construction targeting systems that could impact the maritime industry. Under the strategic management plan, the agency is required to review and revise, as appropriate, each of these programs, and the agency is in the process of doing that.
 - Lead – A NEC has been out there since July, which is based upon data on blood lead and air sampling type data.
 - Amputations – launched about two years ago. Going to the SIC code where OSHA is issuing violations under our machine guarding standards, or alternatively look at the amputation data from BLS.
 - Ship breaking – OSHA has a national emphasis program which directs the field to inspect all navy and MARAD ship breaking sites.
 - Silica --A national emphasis program – A revision of the silica special emphasis program from 1996. It's at the Department for final clearance, and hopefully it will be out very soon.
 - Occupational asthma – The agency is looking for data sources to support that program.
 - The site specific targeting program – A general industry and maritime targeting program which targets roughly 4,000 sites per year.
 - Local Emphasis Programs (LEPs) – area office or region has the authority and the ability to design and implement a local program to address either an industry, if there is a hazard, or a specific hazard. Currently, there are about 140 LEPs, and every year they do about 13,000 inspections.
 - The Site Specific Targeting Program – launched in 1999, based upon OSHA's OSHA Data Initiative. OSHA collects information from 80,000 employers in federal and state plans uses the data primarily for our enforcement program. OSHA also uses it for other outreach activities, but it is primarily for the SSPs.
- ✚ The agency issued a Federal Register Notice May 6th and comments on the SST program are due July 6th.
- ✚ Everyone on the primary and secondary list, which is roughly 13,000 employers, gets a letter about six weeks before the launch of the SST.
- ✚ Captain McNeill asked Mr. Galassi does the agency check and verify and make note of the fact to see whether or not the employer has an accident prevention program. Mr. Galassi responded that the agency does not check that, but OSHA does look at a variety of issues. Number one, the agency is going to look

for compliance with the standards and the regulations, just looking at violations. In addition, compliance officers will, and should, look at the overall programs in the workplace.

- ✚ Next, Chairman Thornton asked Mr. Galassi if he would consider whether rates are ascending or descending. Chairman Thornton also commented that he believes that OSHA would find that the rate of decline of injury in this industry segment far exceeds in a good way those of other industry segments. Mr. Galassi responded that the point of the committee was well taken. Next, Mr. Galassi, said the agency would look into the electronic comment system so you all can have a little more time to get your comments in, and that he would inform Jim Maddux of the developments.
- ✚ Next, there was a very lengthy discussion on material safety data sheets (MSDSs). Mr. Galassi asked MACOSH about their views of the MSDSs. In addition, does the committee see more of these complicated, comprehensive or what. Mr. Flynn commented that there has been virtually no oversight with MSDSs. Mr. Flynn also said “the employers, in good faith, provide them as required, but they're all across the board. I'm glad to see that OSHA finally is looking into this. And you said there may be some enforcement to it. I guess I'd point out to the manufacturers to be in compliance.” Mr. Galassi responded that if an area office, through the normal course of an inspection finds a deficient sheet, but the manufacturer is on the other coast and it's a federal/state, then we have to figure out a way to get that information to that local area office and they would take action. Afterward, Mr. Galassi's presentation was marked for identification as Exhibit 9 and was received in the record.

ALLIANCES UPDATE
By Lee Anne Jillings, Director
Office of Outreach Services and Alliances

- ✚ At the end of May, OSHA had 197 alliances across the nation, 57 of those are national, and 140 are regional and area office alliances. In addition, since the end of June OSHA signed three more national alliances, so the total at the end of June actually is 60 national alliances, and OSHA will soon be getting the numbers from the field to add on to what the new end-of-June total is.
- ✚ The most recent alliances the agency signed were the American Pyrotechnic Association around the retail sales and display of fireworks, OSHA also signed an alliance with NIOSH as a signatory with the National Wood and Pallet Container Association, and the most recent one with the National Federation of Independent Businesses.
- ✚ Maritime has a wide array of organizations that are participating with the national and regional and area offices on alliances.
- ✚ The Agency has identified a number of strategic goal target areas. The ASA and NSRP national alliances are approaching their one-year anniversaries. The Shipbuilders Council of America is a year and a half old. In process of developing an alliance with the National Maritime Safety Association. In March the SCA hosted a safety seminar in Mississippi. Several representatives from OSHA's regional as well as national offices were there to provide updates to the safety seminar as to what the alliances are doing not only nationally, but also at the regional effort. On May 27, just over a month ago the Mobile area office regional and area office signed alliances with the Gulf Coast Maritime Safety Association and the Physical Therapy Association, Alabama Chapter. This alliance focus on maritime and ergonomic issues. Region 6 Houston North area office is developing an alliance with the U.S. Coast Guard.
- ✚ Completed project associated with the national alliances is the SCA shipyard ergonomics video, which was a product of their Susan Harwood grant that the SCA had, has been distributed to OSHA staff and others through the alliance. Current projects the shipyard employment e-tool right now is in the clearance process within OSHA. The three modules that are currently in the final stages are shipbuilding, ship breaking, and barge cleaning. Chairman Thornton commented that he would like to see the continuation of the e-tools process.

- ✦ Upcoming projects that are coming quickly in the coming months ahead. One is the National Safety Congress coming up in September in New Orleans. The maritime alliances, are putting on a workshop session at the National Safety Congress entitled, "Shipyard Alliance with OSHA," and it will take place September 13 from 10:00 to 11:30 a.m. Northrop Grumman has agreed to host a similar sort of VPP seminar at their facility coming up on September 21. The Maritime Steering Committee is in the process of revising curriculum related to the maritime industry and they expect to have the OSHA draft revision by the end of September.
- ✦ The Agency has a directive on the alliance program. This is our official documentation establishing the program, setting out its purpose and structure, what its goals and objectives are and how it flows through the Agency and implementation. That has been finalized earlier this month and it is found on the Agency's website. Through the Alliance Program, the maritime alliances in particular, OSHA estimates we've reached over 45,000 individuals, whether it was through training, train the trainer sessions, outreach products, or through articles and publication pieces that have featured the work and successes of the alliance.
- ✦ After Ms. Jillings presentation, Chairman Thornton opened the floor up to questions from the committee. Captain Preston suggested that it would be nice if OSHA could assist MACOSH in setting a venue for more discussions between the area and regional alliances. Possibly VPPA quarterly meeting or anything that would allow OSHA and industry to come together. Ms. Jillings responded that she thought that was a great comment. Hopefully, maybe through the VPP seminar, OSHA might be able to use that as an opportunity to try to invite in some of the other regional and area office alliances, and certainly the national alliances would be involved in that. Ms. Jillings presentation was marked for identification as Exhibit 10 and was received in the record.
- ✦ In addition MACOSH recommended that, when the 29 CFR Part 1915 Subpart P fire protection standard is promulgated, OSHA update the shipyard e-tools using the assistance of the shipyard alliances.

SCIENCE, TECHNOLOGY AND MEDICINE UPDATE

**By Cathy Goedert, Deputy Director
Directorate of Science, Technology and Medicine (DSTM)**

- ✦ OSHA developed one Safety and Health Injury Prevention Sheets (SHIPS) last year on hot work, and that's on the web now. As a part of working on that, MACOSH helped OSHA develop a matrix of processes and hazards in those processes, and OSHA used that to prioritize what should be tackled next. Based on the matrix the most hazardous process we needed to work on was ship fitting. The SHIPS in process are on ship fitting, shipboard machining, surface preparation, rigging, materials handling on-board ship, and shipboard electrical. The ship fitting SHIPS is being delivered this month, and will go through an internal review with the OSHA review team. The final deliverable is expected in August, and then OSHA will do final internal formal review. OSHA expects to post that on the web in September. The ship fitting SHIPS will be delivered in final in February. It will go through OSHA's internal clearance, and it is expected that in the March/April time frame, they'll all be posted on the web. Other projects OSHA has going on this year in the maritime industry in DSTM has to do with the animated safety videos. Volume one includes crane hazards, confined space, fall hazards, and improper use of equipment. Volume two has more on crane hazards, drowning, improper lockout/tagout, ventilation, diving hazards, and electrical hazards.
- ✦ Chairman Thornton opened the floor up for questions from MACOSH and the public. Captain Preston asked Ms. Goedert if the agency was going to expand SHIPS. Ms. Jillings responded that OSHA has not received the budget yet, but it doesn't look good for 2005. OSHA has to weigh all the different competing requirements that the Directorate has to meet, and the agency will make those decisions in the next months.

Homeland Security/Emergency Preparedness update

By: John Ferris

- ✚ The Maritime Transportation Security Act is in full effect at ports and in incoming ships, and there's been a series of articles in the news. OSHA is not getting into the security business, not the intelligence business. In March, the Department of Homeland Security came out with the National Incident Management System (NIMS). The Coast Guard had set up a very good one that folks were following already, as well as this incident command system; it was becoming universally applied at the state and local level as well. OSHA has focused on the Department of Homeland Security and other agencies to see what are the roles and the responsibilities of the safety officer. OSHA recognizes that the safety officer is looking out for the safety and health of the responders and that is also OSHA's role. It is certainly something that OSHA should be taking leadership on, and the Department of Homeland Security is expecting OSAs to do that in support of the overall response mechanisms.
- ✚ The Presidential directive said that all state and local governments are to follow the NIMS if they want federal preparedness grant money. The Department of Homeland Security has recently stepped up its NIMS National Integration Center. OSHA is working with the NIMS Integration Center. The Department is bringing together all the different things that the different agencies have, and integrate them into a universal system. The integration center will educate the nation and promote interoperability; training requirements, national standards, guides, and protocols. OSHA's role is to protect the responders. OSHA has been championing worker safety during the development of this National Response Plan to ensure that safety and health is part of the national response.
- ✚ The National Response Plan should be out sometime in July. OSHA is committed to providing technical assistance as part of this federal response system. OSHA recognizes that if we are part of that incident command system and part of the decision making process, we can mitigate the violation before the violation even occurs. OSHA decided these things were necessary for the federal and National response plan:
 - Hazard identification
 - Monitoring PPE
 - Distribution of PPE
 - Responder exposure sampling
 - Risk assessment
 - Data sharing
 - Looking at site hazards.
- ✚ The Disaster Site Worker Training Program - skilled support personnel are included in the definition of first responders. Firemen don't generally have cranes, and if they do have them, they generally aren't operating engineers. They often need those skilled support personnel to do their jobs.
- ✚ The agency created a disaster site worker training program that will be rolled out in the next couple of months. Additional training will be given to the skilled support personnel throughout the country so that they have the training necessary to be included as part of the response network. Coming out of the White House's Homeland Security Council is a chemical end-to-end study that deals with personal protective equipment and ensuring that it meets NIOSH requirements and function properly.
- ✚ The evacuation e-tool designed to provide assistance for employers on how to set up an evacuation system. The emergency preparedness website can be found on OSHA's general website. It's one of the specialty topics that you can look at.
- ✚ Mr. Ferris concluded his presentation and Chairman Thornton opened the floor for questions. Captain Preston commented to Mr. Ferris that her facility has four or five plans on the shelf and they're wondering which one to pull out in case of an emergency. Mr. Ferris's responded "he would I would certainly say if they wanted a specific format, put it in a specific format, but also use what you use and use what you've

already developed as part of that.” Mr. Flynn asked “One, for these different types of scenarios that may take place around these types of areas, are specific issues being looked into? Is the worker training issue being addressed and is the funding for that being allocated?” The second question was “is OSHA getting some of those funds to be able to support your initiatives here, which should, I feel, include worker training?” Mr. Ferris responded a lot of the times the training is based on what the worker could expect on a day-to-day worksite, not an emergency response. “If you're looking at a skilled trade, I doubt they would ever get into level A during emergency response.” Those negative pressure respirators are very important, but it's not generally part of the training. So that's why we came up with this disaster site worker training to address specific training needs. We aren't trying to make them experts on anything. It's strictly an awareness level.” “The Office of Domestic Preparedness is putting out grants to local areas for training, so we're saying, HAZWOPER, for skilled support should be part of the training curriculum. We were also working with NIHS and their grant programs and the grants that they have with the skilled trades.”

- ✚ A member of the public asked Mr. Ferris “how do we know that we can go back to work safely? I would just express that your work has to go beyond the site safety for the response workers. You also have to look at it for the site safety and the well-being and ease for the workers that have to go back to work after that event has occurred.” Mr. Ferris responded “we're looking at emergency response or this whole homeland security thing in three different ways. One is what you were saying, that the workers and what they need, not only in evacuation, but that whole concept of how clean is clean afterwards. There are still worker protection standards that must be applied, even if it's a disaster.” The public participant then asked Mr. Ferris “how do you intend to coordinate with them, like for Region 9 and Region 10?” Mr. Ferris responded that OSHA has developed a national incident management plan. Each region is creating a regional emergency management plan, and in that regional emergency management plan is where that discussion takes place. If the governor declares an emergency and requests federal assistance, it's not as though the state plan state doesn't exist anymore. We are there to assist the state.
- ✚ Chairman Thornton concluded the Q&A session of the presentation, and the presentations by Cathy Geodert and John Ferris were marked for identification as Exhibit 11 and Exhibit 12 were received in the record.
- ✚ Chairman Thornton called for discussion on a couple of issues. First, the recharter letter had been drafted for the committee’s review. The letter consisted of MACOSH’s accomplishments, a few recommendations, and finally, what's over the next hill.

OUTREACH WORKGROUP DISCUSSION

By: Captain Terry Preston.

- ✚ The workgroup continued to support the e-tools projects and provided an editorial board for the SHIPS project and for the fatality videos. OSHA representatives came into our meeting and asked for some assistance on how to better promote some of the partnership programs and alliance programs. One of the things presented to the workgroup was the Challenge program, which is a first-step program to introduce the VPP process to industries that might not be ready for VPP immediately. The workgroup discussed pushing ahead with alliances, and putting together a VPP introductory session, which is going to be the 21st of September at Northrop Grumman in Avondale. Both industry and MACOSH will get the word out and hopefully get large participation from the maritime sector in the VPP workshop. The workgroup asked OSHA to specifically target the Challenge program when they put the agenda together for the VPP workshop, because many smaller employers do not qualify for VPP based on their injury rates right now.
- ✚ Captain Preston inquired if Pat Showalter could provide a brief overview of VPP.

VPP PRESENTATION

BY: Patrick Showalter

- ✚ On May 26, OSHA launched three new initiatives, the VPP corporate, VPP Challenge for Construction, and the OSHA Challenge program. OSHA called the challenge plan a road map to safety and health. The agency has mapped out an effective tool to monitor an employers' progression through the elements of VPP, hopefully when finished employers' will be able to apply for VPP. The Challenge program is also an area where OSHA can provide recognition to sites which have completed these stages. The recognition is given once a corporation has completed stage one; they receive a letter from an OSHA area office, stage two, from a regional office, and stage three, from the national office. An administrator monitors and tracks the progression of the sites, and supplies that information to OSHA's directorate on a quarterly or annual basis. There are 10 administrators at this point. Once the pilot project for the administrator term expires and the agency examines the results OSHA is going to open it up to other administrators.
- ✚ Chairman Thornton asked Mr. Showalter if his presentation could be entered into the record. Mr. Showalter agreed and documents marked for identification as Exhibit 13A Occupational Safety and Health Administration Challenge Pilot, background paper, Exhibit 13B the Challenge Pilot Summary Status Report, and Exhibit 13C the Challenge Pilot Stage 1 Tracking Form were received in the record.
- ✚ Next, Mr. Flynn asked if an employee representative must sign off on the VPP program. Mr. Showalter response was to become a VPP site; labor must sign off and support it, however at this time that is not a requirement of OSHA Challenge. If a site wants to go pursue VPP at the end of stage 3, they would have to have an employee representative sign off on the program. Mr. Flynn also asked why OSHA didn't mandate that, as they did with the VPP. At that time Laura Seeman responded that OSHA does not want to discourage sites by putting all the VPP requirements right at the beginning of the process, and that is why OSHA doesn't have a requirement at this time. Again, this is a pilot that OSHA working on, so it very well may be that at the end of the pilot period OSHA may decide to incorporate that.
- ✚ Captain Preston made a motion that OSHA should find a way, through the alliances, to incorporate Subpart P into the shipyard e-tool. The motion was carried without opposition. Captain Preston made a motion to suspend MACOSH suspends meetings of the outreach workgroup indefinitely. The motion was accepted by the committee.

Next, Mr. John Henshaw, Assistant Secretary for the Occupational Safety and Health Administration (OSHA) joined the meeting. Chairman Thornton welcomed Mr. Henshaw, and invited him to talk to the group. Mr. Henshaw greeted the committee members and said that he appreciated the opportunity to speak. Mr. Henshaw went on to notice that MACOSH listed rechartering as an agenda item open for discussion. Chairman Thornton told Mr. Henshaw that he will be receiving their request in a letter, but basically MACOSH is requesting to be rechartered early, so as to get MACOSH aligned with the budgeting process. Mr. Henshaw responded "I don't want to bias the discussion, but I am looking forward to your continuing support and advice on these issues. So, I hope we can find a way of making sure that will happen in the years to come. So, I look forward to it." Mr. Henshaw asked MACOSH if they had any other items of interest to discuss. Chairman Thornton said that if OSHA went and looked at the maritime industry's injury and illness rates and contrasted that against other industry segments, this industry is doing very good things. Also, a lot of it stems back from the people in the room, and certainly at the table, supporting these kinds of efforts. Mr. Henshaw commented that MACOSH is one of the leading advisory committees that's providing good work and good advice, and turning things into useful products that OSHA can turn around and make permanent within the Agency. So, OSHA really does appreciate the hard work of MACOSH. Mr. Henshaw mentioned the Hispanic Safety and Health Summit on July 22 of this month. Mr. Henshaw suggested a smaller group could possibly go listen and then report back to the committee. Mr. Henshaw stated that he is interested in an analysis of the best practices shared during this summit, and how OSHA can convert that into some meaningful action. Chairman Thornton reiterated the committees' interest in rechartering MACOSH, and Mr. Henshaw told the committee that he is looking forward to their recommendation as to how we can proceed on the chartering issue. Next, Chairman Thornton concluded the discussion and thanked Mr. Henshaw for sharing his time with MACOSH.

Next, Chairman Thornton motioned for discussion and editing of the MACOSH recharter document. After completion of the document Mr. Nadeau made a motion to submit the document into the record. Chairman Thornton called for any other discussion of the document. Mr. McGill commented that all the MACOSH members contributed to the effort and put in the points they felt were important to produce the document. Therefore, MACOSH should unanimously accept the motion. Mr. Flynn commented that MACOSH specifically asked the rechartering to take place October 1, 2004 so that it would coincide with the budgeting process and would allow better continuity between the committee and the Agency.

Chairman Thornton called for a vote on the motion, and MACOSH unanimously voted to accept the recharter letter to Assistant Secretary John Henshaw, and also recommended that the Secretary of Labor recharter the advisory committee on October 1, 2004 to align the committee's charter with the federal fiscal year. The letter was marked for identification as Exhibit 14 and was received in the record.

Next, the committee discussed administrative issues. Jim Maddux asked the committee to please get in their expenses submitted in a timely fashion. Chairman Thornton asked the committee if there was any other business to discuss. Mr. McGill said that he would like MACOSH to look at putting something together something for maritime in regards the 10-hour training course. Captain McNeill suggested that one of the workgroups be assigned the task to look at the metrics of this business, the metrics of accident prevention. Mr. Thompson volunteered to take on the task of the metrics of accident prevention. After that discussion the meeting was adjourned.