

MEETING SUMMARY
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
MARITIME ADVISORY COMMITTEE FOR OCCUPATIONAL SAFETY AND HEALTH (MACOSH)
Wednesday, April 16, 2014

U.S. Department of Labor, Bureau of Labor Statistics
2 Massachusetts Avenue N.E.
Conference Room 8
Washington, D.C. 20212-0001

*The entire transcript of this meeting can be viewed at www.regulations.gov under docket number
OSHA-2013-0007*

COMMITTEE MEMBERS:

James R. Thornton (MACOSH Chair)
Amy Sly (Marine Chemist Association)
Kenneth A. Smith (U.S. Coast Guard)
LCDR John F. Halpin, MD, MPH (National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services)
George S. Lynch, Jr. (International Longshoremen's Association)
Tim Podue (International Longshoremen's and Warehousemen's Union)
Kelly J. Garber (Longshoring Workgroup Chair)
Arthur T. Ross (Texas Terminals L. P.)
Gary Steinberg (DOL Special Agency Liaison)
Daniel R. Harrison (American Society of Safety Engineers, Hampton Roads Shipping Association)
James S. Rone (Washington State Department of Labor & Industries)
Christopher John McMahon (U.S. Department of Transportation, Maritime Administration)
Lesley E. Johnson (International Brotherhood of Electrical Workers)
Robert Godinez (International Brotherhood of Boilermakers)
Donald V. Raffo (Shipyard Workgroup Chair)
Karen I. Conrad (North Pacific Fishing Vessel Owners' Association)

OSHA STAFF:

Amy Wangdahl, Designated Federal Official, Director, Office of Maritime and Agriculture
Jennifer Levin, Committee Counsel, U.S. Department of Labor, Office of the Solicitor
Danielle Watson,
Vanessa Welch
Gretta Jameson,
Christopher Shaw

PUBLIC:

Solomon Egbe (Ports America)
Curtis Shaw (Pacific Maritime Association)
Rashad Tucker (MARAD)
Ken Stevanus (OSHA)
Kevin Sullivan (OSHA)
Ryan Whitman (ILWU)
Ed Ferris (ILWU)
Jerry Swanson (Pacific Maritime Association)
Fernando J. Berrios (DOL – OSHA)
Jennifer LaBracio (DOL – OWCP-Longshore division)
Steve Bell (Maritime Enforcement)
David Doucet (OSHA – Region 6)
Scott Ketcham (OSHA – Region 10)
Jack Writ (OSHA – Region 9)
Polly Parks (EMR- Southern)
Acie Zachary (OSHA)

Opening Remarks, Roll-Call and Introduction of Members

James Thornton (MACOSH Chair)

Chairman Thornton welcomed the Committee to the first meeting of the reestablished committee, called the roll, and reviewed the meeting agenda. The full discussion of the meeting agenda can be found in the official transcript on pages 13–15 at, www.regulations.gov. The meeting agenda was entered into the record at OSHA-2013-0007 exhibit 5.

Review of July 25, 2012 meeting minutes – The Committee reviewed the July 25, 2012 (Seattle, WA) MACOSH meeting minutes and unanimously accepted the minutes as written.

The July 25, 2012 MACOSH meeting minutes were entered into the OSHA docket under OSHA-2013-0007 as Exhibit 4.

Role of MACOSH

Amy Wangdahl, Director, Office of Maritime and Agriculture

Ms. Wangdahl informed the Committee that MACOSH serves to advise OSHA on safety and health issues faced in the maritime industry. Throughout the term of this Charter, advice will be sought from the members. This advice may end up in guidance documents, rulemaking initiatives or other products that will help reduce injuries, fatalities and illnesses in the maritime industry. Advice may also be sought on new initiatives taken on by the Agency. The Agency will act on recommendations based on staffing, regulatory initiatives or budgetary constraints. Every effort will be made to produce and publish every document put forth to the Agency.

The full discussion of the presentation entitled “Role of MACOSH” can be found in the official meeting transcript at www.regulations.gov under OSHA docket number OSHA-2013-0007.

Directorate of Standards and Guidance Update

Bill Perry, Acting Director, Directorate of Standards and Guidance

Mr. Perry provided an update on guidance documents completed by the Agency in 2013, the documents recommended by MACOSH, and the most recent Regulatory Agenda.

The previous charter of MACOSH produced numerous guidance products, materials, papers, etc. In 2013, OSHA published 13 MACOSH guidance products. There were 15 Longshoring Guidance products recommended during the previous charter, 10 of which were published, and 7 Shipyard documents (including a white paper) were recommended by the Committee and published by the Agency during the previous charter.

Regulatory Agenda -- The last Regulatory Agenda was published on November 26, 2013. The Spring Agenda will be published soon and everything on it is an active program. Resources have been committed to every project on the Regulatory Agenda. Items on the regulatory agenda includes:

- Vertical Tandem Lifts Remand Notice -- This Final Rule was published a few years ago. OSHA was sued and a court decision remanded two provisions of that rule back for reconsideration by the Agency.
- Subpart V – Electrical Standard -- Subpart V is an electrical standard for power generation, transmission and distribution, published on March 11, 2014. The purpose of this Standard was to make the Construction and General Industry Standards that apply to electric power generation, transmission and distribution the same.
- Crystalline Silica -- Crystalline Silica is a big issue for OSHA and the Directorate. This is the first major Health Standard proposed for publication in seven or eight years. The Proposal was released on September 12, 2013.
- Recordkeeping Modernization -- This is a modification of recordkeeping requirements that would require establishments to electronically submit injury and illness records.
- Subpart E – Fall Protection in shipyards -- Request for Information (RFI) was new on the 2013 fall regulatory agenda. OSHA intends to develop and publish a request for information that deals with shipyard fall protection, scaffolds, ladders, and other working conditions.
- Beryllium -- A proposed rule is currently in review and clearance within the Agency and Department; it should be close to going to OMB for review.

- Combustible Dust -- The next step for the Standard on Combustible Dust is to receive input from small businesses on regulatory alternatives and options.
- Injury and Illness Prevention Programs -- The Injury and illness Prevention Program is at the stage of gathering materials and regulatory options to get small business input.
- Infectious Disease -- OSHA is gathering materials and regulatory options to get small business input. This subject matter presents some interesting scientific and risk assessment issues in terms of establishing whether there is a significant risk of disease from infectious disease agent.
- Chemical Management Standards -- The review of OSHA chemical management standards is a request for information for ideas about how to fix the outdated health standard. There are 400 permissible exposure limits on the books since 1971.
- Process Safety Management and Flammable Liquids -- OSHA is required, under Presidential Executive Order, to increase chemical safety and security. Under the Executive Order 13650, OSHA is required to work with the EPA and Department of Homeland Security to modernize process safety requirements and other related standards, such as the Explosive Rule.
- Walking Working Surfaces -- Walking working surfaces is personal fall protection in General Industry. OSHA is working on a final rule and expects to release the rule later this year.

The full text of the presentation entitled “The Directorate of Standards and Guidance Update” can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 6.

Welcome MACOSH members

Dr. David Michaels, Assistant Secretary, Occupational Safety and Health Administration

Dr. Michaels informed the Committee that in the coming years, OSHA will be focusing on preventing injuries and illnesses and also on helping injured workers to return to work quickly. One of the assignments to workgroups is to look at existing documents and to identify which documents need to be translated. The workgroups are also to provide priorities and direction for new materials that need to be developed, and determine what hazards have not been addressed well and need to be addressed.

- **Budget** -- Sequestration and the Government shutdown last year impacted OSHA’s work in many areas, including Advisory Committees. OSHA now has a budget, with a slight increase in overall funding, however the Agency is required to reduce government expenditures. As a result, MACOSH only meet two times per fiscal year. In the past, MACOSH has been able to meet in different cities and observe maritime worksites. However, MACOSH may not be able to continue doing that because of budget constraints.
- **Committee’s Charter** – The current MACOSH charter expires in May 2015. OSHA will start the rechartering process soon so that the work of the committee can continue.
- **Member introduction** – Dr. Michaels asked the Committee members to introduce themselves and provide a brief synopsis of their maritime industry credentials .

*The full discussion of the presentation entitled “**Welcome MACOSH members**” can be found in the official meeting transcript at www.regulations.gov under OSHA docket number OSHA-2013-0007*

Directorate of Enforcement Programs Update on Maritime Activities

Tom Galassi, Director, Directorate of Enforcement Programs (DEP)

Severe Violation Enforcement Program (SVEP) -- SVEP aims to focus resources on employers deemed to be “severe violators.” The program looks at high-gravity violations, repeat, and failure to abate in areas such as fatality, and high-emphasis hazard, which could be a fall, amputation, combustible dust, silica, lead trenching, or ship breaking. The high-emphasis hazards account for 68% of the programs, and the other is 24%.

Mr. Rone asked if state plan data maps over into the data represented on Mr. Galassi’s slide.

Mr. Galassi responded that he is not sure. The states are required to implement this program. Mr. Galassi stated that he would be meeting with the State Plans soon and will follow up.

Mr. Rone stated that his office has an SVEP inspection and it did not show any on the slide.

Mr. Galassi stated that this issue has been flagged for discussion with the State Plans. DEP wants to make sure if they have an SVEP employer, that they are doing the nationwide referral to DEP and likewise. The try to make sure there is transparency. He does not know the percent fatality rate for small business, but will put it on his agenda for discussion with State Plans.

Novel Cases – 5(a)(1) General Duty Clause

- **Ergonomics** -- The General Duty Clause is the primary tool applied to “novel” cases. The first area is ergonomics. OSHA has issued 973 Ergonomics Hazard Alert Letters (EHALs). The largest area for this issue is in nursing homes and residential care.
- **Workplace Violence** -- With respect to workplace violence, the focus must be on those workplace violence hazards which are predictable and perhaps preventable. Areas such as healthcare, social services, night retail, and prisons, are environments in which workplace violence is predictable and DEP looks for employers to develop programs to protect those workers. DEP conducted about 60 investigations in 2013, and issues a few hazard alert letters and some General Duty Clause violations. There are about 30 ongoing investigations this year and three General Duty Clause violations. Efforts are being made to review guidance and make it as current as possible for healthcare and social services because there are a number of issues there. In addition, DEP will update the compliance directive to address this issue.
- **Chemical Exposure – Permissible Exposure Levels (PELs)** -- There are currently about 470-480 PELs. DEP looks at the PELs in cases where they are not covered by PEL under a General Duty Clause. In rare instances, there is a PEL that is known to be inadequate, and the General Duty Clause may be applied.
- **Oxygen Exposure Levels (OELs)** -- Under the 2012 Hazard Communication Standard, there is a requirement to renew safety datasheets. The SDS provide information on the hazards of the chemical for responding to emergency response in a HAZWOPER but also for General Duty Clause violations.
- **Heat Stress** – Applies to outdoor operations: construction, waste collection, lawn care. There have been a total of 266 inspections in 2012 and 2013, resulting in 21 5(a)(1)s, and 54 hazard alert letters. A number of these involved fatalities.

National Emphasis and Local Emphasis Programs, Inspections -- National and local emphasis programs include, **Chemical Plant NEP, Trenching NEP, Silica Lead Amputations, Combustible Dust NEP, Amputations NEP Hexavalent chrome NEP, and Ship breaking NEP.**

Q: Mr. Garber asked if a single fatality event moves an employer into the enforcement program.

A: Mr. Galassi responded that it does not. One fatality in a high-gravity OSHA category, plus willfulness, repeat or failure to abate, are fairly serious actions by an employer. One fatality in a high-gravity category places the employer into the program.

Maritime Directives and enforcement activities

Steven Butler, Director, Office of Maritime Enforcement

Mr. Butler explain OSHA’s maritime directives.

Maritime Jurisdiction directive -- The maritime jurisdiction directive covers all maritime jurisdictions on US waters, state territorial waters, out continental shelf, OSHA jurisdiction in the Great Lakes, Saint Lawrence Seaway, etc.

1915 Subpart I **directive for shipyards** for PPE. The 2010 directive **on ship breaking** is currently being updated. OSHA has a Memorandum of Agreement (MOA) with the Navy, EPA and the Maritime Administration to conduct site inspections for ship breaking.. OSHA is renegotiating that MOA and will be reissuing a directive for ship breaking

1915 Subpart B directive for confined spaces shipyards. Serious incidents, like multiple fatalities, usually involve confined spaces.

Four of the five of OSHA’s core directives include: Commercial Diving directive, updated in 2011; the Longshoring-Marine Terminals Tool Shed directive, dated July 2012; the Cargo Gear standards and Part 1919 certification directive, updated and issued in 2013; and the Shipyard Tool Bag directive, issued February 6, 2014. All of the directives are extensively linked electronically.

The Office of Maritime Enforcement has been involved in over 50 investigations and seven significant cases since March 2012. Maritime Enforcement is currently engaged in an audit of the people who do the inspections under the Part 1919 Certification Program. In the past three years OSHA has revoked two of the companies under 1919.8. As a result, OSHA decided to audit everyone else. Maritime Enforcement is updating the Memorandum of Agreement with the Navy, EPA and MARAD. The NEP on ship breaking will be reissued when completed. Maritime Enforcement issued marine safety information bulletin in conjunction with the Coast Guard for the commercial diving industry. The next project with the Coast Guard will be electrical safety in marinas. OSHA will also update the FOM. The database for OSHA 71 and 72 forms was launched in 2009 and fully implemented January 1, 2014.

The full text of the presentation entitled “The Directorate of Enforcement Update on Maritime Activities” can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 7.

Overview of the Federal Advisory Committee Act (FACA)
Jennifer Levin, MACOSH Council (Office of the Solicitor)

OSHA has four advisory committees in addition to MACOSH. All advise the Secretary of Labor and Assistant Secretary of Labor for Occupational Safety and Health on workplace safety and health issues and whistleblower protection activities.

Federal Advisory Committee Act – Congress enacted FACA in 1972 to provide structure to the establishment, operation and termination of advisory committees and to allow them to give advice and recommendations to the Executive Branch. Prior to FACA’s enactment, the federal government lost track of the number of active advisory committees. The FACA defines an advisory committee as any committee, board, commission, council, conference panel, task force or other similar group, or any subcommittee or other subgroup, which is established by: statute or reorganization plan; established or utilized by the President; or established or utilized by one or more agencies in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government.

MACOSH is a discretionary committee authorized by the Agency, the Department of Labor, and the undersecretary for Occupational Safety and Health. It is established under the general administrative authority of the Department of Labor, and also the authority pursuant to Section 7(b) of the Occupational Safety and Health Act. As a discretionary committee, it automatically expires after two years unless the Agency renews it with a renewed charter. The advisory committee must include at least one non-federal employee. The Agency is not required to accept and act on advisory committee advice. Unless the Agency specifically says otherwise, committees are not authorized to do anything other than give the Agency recommendations. Advisory committees are not authorized to convene a public hearing or write letters to Congress. Membership on advisory committees must be balanced in terms of points of view. Advisory committees must hold open public meetings. Notice of all meetings must be published in the Federal Register at least 15 days in advance. The public must be allowed to file written statements. All documents considered by the Committee must be maintained for public inspection. A designated federal official (DFO) must attend all meetings and approve all agendas. The Minutes of all meetings must be kept and certified by the Chairperson of the Committee. All financial records must be kept and each must report annually on activities, expenses, and membership.

Each FACA Advisory Committee must have a DFO who ensures compliance with FACA; calls, attends and adjourns meetings; works closely with the Advisory Committee Chair; prepared Federal Register notices for meetings; approves agendas and any press releases; and maintains the requested official records of the Committee including Minutes, membership, cost records, all to be made available to the public. Ms. Wangdahl is the DFO for MACOSH. The DFO must adjourn the meeting if he or she determines that it is not in the public interest, as when it is acting outside of its legal authority.

FACA is a public access statute. It is not designed to ensure public participation, but rather public access to information about the Committee’s activities. All deliberations of a FACA Advisory Committee that seek to reach a consensus on advice given to the Agency are to occur in a public forum. The main objective is openness and accountability to the public. Committee Members are not to discuss or conduct MACOSH business with each other outside of the official meeting setting. There are some limited times when advisory committee meetings may be closed to the public. That is done in accordance with the exemptions for closure contained in the Government in the Sunshine Act, 5, U.S.C., 552(b) Subpart C. The DFO must request prior approval of the Agency head and the Solicitor of Labor before a meeting is closed to the public. Examples of meetings that may be closed are: those involving discussions of classified information; reviews of proprietary data; deliberations including considerations of personal privacy. The report of an agency head’s determination to close meetings must be made available to the public.

There are activities of MACOSH that are not subject to FACA, and there is no public access requirement. Subcommittees are workgroups that are required to report to the Full Committee rather than directly to the Agency, and are not subject to FACA requirements. Although not required, OSHA opens their workshop meetings the day before a full committee meeting to the public, so OSHA is a model of transparency and goes above and beyond what FACA requires. Other committee activities such as preparatory work, drafting, fact-finding, do not need to occur in a public open forum. However, most material that will be considered by the Full Committee must be made available to the public.

OSHA policy goes beyond the FACA transparency requirements. OSHA publicly solicits nominations and announces committee membership selections in the Federal Register. Workgroup meetings held in conjunction with full MACOSH meetings are open to the public to attend and participate. OSHA allows the public to comment at advisory committee meetings. OSHA posts records from advisory committee meetings such as minutes, transcripts,

exhibits, reports and studies on regulations.gov, the federal eRulemaking portal. Further information on FACA can be found at the General Services Administration website, gsa.gov.

The full discussion of the presentation entitled “Overview of the Federal Advisory Committee Act (FACA)” can be found in the official meeting transcript at www.regulations.gov under OSHA docket number OSHA-2013-0007.

Ethical Responsibilities

Rachel McClean, Ethics Attorney, Department of Labor

Most of the Federal Ethics Rules only apply to employees. All of the members of the Committee are acting as representatives and do not count as an employee. Most of the Rules do not limit their behavior. However, there are some requirements that the members will be asked to abide by. The first requirement concerns misuse of position. Members and/or their associates cannot use their association with the Government to get benefits of any sort from the Government. One way for members to protect themselves is by not being their employer’s point of contact with the Department of Labor. In addition, since members are not government employees, they do not represent the Department and should never make comments or claims in that regard. Also, members do not get Department of Labor business cards and must not hold themselves out as a person of authority at the Department. Another requirement on members concerns the potential misuse use of government resources. Another requirement on members concerns Government or non-public information. That has not been an issue for MACOSH since MACOSH makes everything public. But members must keep in mind that they must not release any information that has not been made public. The conflict of interest rule states that members should not participate personally and substantially when they have a financial interest or an organization that they are connected to is directly involved. This does not come up much for this Committee, but members should keep this in mind. If members have any questions concerning conflict of interest they can contact Ms. McClean or Ms. Wangdahl, or the Chair of the Committee. The Hatch Act limits potential partisan activities that happen in federal buildings or by federal employees. Partisan political activities are not allowed in federal buildings. “Partisan political activities” means acting in support of or against a particular political candidate or party.

Directorate of Administrative Programs Update and MACOSH Travel Policies

Ms. Maggie Carson, OSHA budget officer

The Fiscal Year (FY) 15 Budget is currently up on the Hill for consideration by the Budget Committees. The FY-13 budget was a sequestration budget so OSHA was funded at the FY-12 minus 5% level. Although last year’s budget was reduced, it did not result in any furloughs for any employees. However, there was a number of cuts in areas such as equipment replacement, travel, and other administrative reductions. In anticipation of being funded at a similar level in 2014, OSHA started to reduce the employment level so that the agency would be at a lower employment level without furloughs or reductions in force. Much of the increase in OSHA’s budget for 2014 was for the Whistleblower Program. OSHA will prepare three alternatives for the FY-16 budget.

Travel Expense Reimbursement – All federal employees are required to use the City Pair systems to book airline travel. Requests for reimbursement are to be made using the form, “ACH Vendor Miscellaneous Payment Enrollment Form.” Costs for airfare booked through the City Pair systems will be billed directly to the Department of Labor to the OSHA. Everything else will be reimbursed upon submitting a voucher.

Q: Mr. Johnson asks if when submitting receipts for expenses they can still submit those electronically by scanning and emailing them.

A: Mr. Lewis responds that they can, that is the easiest method.

C: Mr. Podue pointed out the difficulties associated with being unable to meet in person versus electronically.

R: Mr. Lewis stated that for these larger group meetings, he is not sure it is easy to do them any other way than in person, to make them productive. Mr. Lewis also stated that MACOSH should plan to proceed in the same way as in the past with advisory group meetings and not attempt to do WebEx or other forms of electronic gatherings, because it is not productive. Outside input from the advisory committees are important to OSHA and other federal agencies.

The full text of the presentation entitled “Directorate of Administrative Programs Update and MACOSH Travel Policies” can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 8.

Presentation from the Office of Workers' Compensation Programs (OWCP)

Mr. Gary Steinberg and Antonio Rios (OWCP-DOL)

Mr. Steinberg explained the close correlation between the nature of the work of MACOSH and OWCP. MACOSH deals with issues of safety and prevention, and OWCP deals with issues when an injury or illness has occurred. OWCP works with workers to get them into diagnosis, early treatment, recovery, and back to work. The mission of the OWCP is to protect the interests of the workers who become injured or ill on the job. There are three aspects to the OWCP mission. One is a timely and high-quality decision on the claims whether the claim will be accepted or not. The second is when a claim is to be accepted to ensure that a payment is made in a timely and accurate manner. The third is helping injured workers return to work. OWCP receive about 175,000 new claims each year and pay out over \$6 billion in benefits. OWCP has an operating budget of \$345 million and supports four major programs. The Federal Employees Compensation Program; the Black Lung Program; the Nuclear Energy Program; and the Longshore and Harbor Worker Program.

Mr. Antonio Rios, Director for the Longshore Program:

OWCP oversees the delivery of the Workers' Compensation benefits to injured longshoremen and shipyard workers. OWCP regulates the self-insured employers and the insurance carriers.. All worker benefits (medical treatment, wage loss replacement, and vocational rehabilitation) are entitled to them by the Longshore and Harbor Workers Compensation Act. There are three underlying acts: the Longshore Act; the Non-appropriated Funds Instrumentalities Act; and the Outer Continental Shelf Lands Act. The majority of the injured workers that are relevant to this Committee fall under the Longshore Act.

There was a slight drop in injury and illness rates from 2012 to 2013. Under the Act, employers are not required to report every injury, only those that result in loss of work. There were just over 12,000 longshore cases in 2012, and slightly fewer in 2013. 85% were traumatic injuries, and 15% were occupational diseases. That is pretty common and in line with the relative split for federal workers. What is unusual among the longshore cases is that the occupational disease claims are mostly comprised of hearing loss cases. The benefits paid in FY 2012 under the four statutes were \$1.2 billion in FY 2012, of which \$637 million was for longshore cases. The statute is written such that information is collected on a calendar-year basis. Calendar Year 2013 is not yet available.

The Federal Employees Organization is a data-rich organization. However, the longshore system is not data-rich which is why OWCP could not provide the data request for the Committee. OWCP will work with their IT staff and ask them to capture the NAICS Codes or occupational codes, and cause of injury codes for the Maritime industry. Mr. Rios informed MACOSH that OWCP currently have injury codes for nature of injury, location of injury, and injury type, but very limited, but would like something more extensive where they can see trends and provide data to the Committee. Mr. Thornton offers for OSHA and MACOSH to assist Mr. Rios in this process. Mr. Steinberg adds that the Office of Workers' Compensation Program is anxious to share their information as well.

Q: Mr. Halpin asks about the six categories of injury on the slide and whether there is another category for those that do not fit in one of the six.

A: Mr. Rios responds that there are other categories and he has included on the top categories.

Q: Mr. Halpin asks what "continuation of pay" refers to.

A: Mr. Rios responds that there are some provisions in certain statutes where one can receive a continuation of pay for a specific period of time before the employer or insurance carrier is required to pay it. This would be for the most severe injuries.

Hearing loss makes up the majority of occupational diseases. The second injury classification in the top five is traumatic injury with multiple injury sites. Mr. Rios hopes that in a year or two, once they refine their data dictionary, they can provide more information.

The longshore harbor workers' injury data combines shipyards and longshoring activities. There is no method to separate the two. OWCP cannot make the distinction between shipyard worker and terminal worker. However, hopefully in the future, they can be separated by NAICS code.

OWCP offers dispute resolution services. OWCP tries to have both parties come to a resolution without getting into a protracted litigation process where they have to go to the Office of Administrative Law Judges and then perhaps appear to the Benefits Review Board, or even to the Supreme Court. OWCP's primary purpose is to make sure that the injured workers receive the benefits to which they are entitled. OWCP tries to resolve disputes through informal conferences, and generally will try to schedule the conference within 15 days of notice of a dispute and to conduct the conference within 30 days and issues recommendations within 10 to 15 days after the conference. The average dispute resolution goal for 2014 is 120 days. Sometimes the dispute is not resolved in the informal conference, and

OWCP will issue an information recommendation on behalf of the Department of Labor. The recommendation is not binding. There were over 2,000 informal conferences last fiscal year. OWCP resolved over 2,300 disputes.

Vocational rehabilitation is one of the most important things that the OWCP does. The two goals of a Workers' Compensation program are to get the injured worker at pre-injury status both financially and medically. OWCP offers bulk rehabilitation services at the expense of the Department of Labor's special funds. This service is voluntary on the part of the employee. Last fiscal year, there were 268 injured workers who returned to work with the assistance of an OWCP rehabilitation counselor. This year, of the 128 individuals who completed an approved rehabilitation program, 82% returned to work and more than half of them returned to work with their previous employer. The original employer extended them either full-time employment or accommodated light-duty employment.

Mr. Rios hopes to have a portal for the Longshore Program and the other three OWCP programs where union representatives, injured workers, medical providers can upload documents electronically directly to the file where they will be received by the Department of Labor representative within less than one hour.

Q: Mr. Raffo asked if Mr. Rios has a relationship with NSRP, a shipbuilding research program. NSRP is a group that combines a lot of the major shipyard employers. They have a large Workers' Compensation injury reduction program. He suggested that it would be good for Mr. Rios to interact with NSRP.

A: Mr. Rios responded that the only working relation they have is with the National Association of Waterfront Employers (NAWE). NAWE covers a lot of terminals and he hopes to talk to NSRP.

Q: Mr. Garber asked for clarification on the electronic updates (the uploading of settlement requests, correspondence and medical records).

A: Mr. Rios stated that he eventually wants to get to the point where a form LS-202 or form LS-203 can be submitted electronically. It is more difficult to create a form field system where all of the data is captured and submitted into a different IT system as opposed to uploading a PDF and transferring that image file into OWCP's system. Mr. Rios stated that he would like to continue this discussion with Mr. Garber and wants input from the people who are filling out the form LS-202s.

C: Mr. Godinez comments on delays in treatment and return to work related to cutbacks where the ALJs are insufficient. He seeks Mr. Rios' assistance in that arena.

R: Mr. Rios stated that they are aware of the problems. Last year was the first year that the OWCP looked at the effectiveness of their internal activities as well as the ALJ. OWCP has no jurisdiction over ALJ. The emphasis by OWCP is to ensure their claims examiners are skillful and well-practiced in terms of dispute resolution. OWCP is conducting training, looking at best practices, and sharing what does and does not work across the district office. C: Mr. Godinez also commented that a lot of injured workers who can go back to work are not being returned to work. R: Mr. Rios stated that he hopes this can be changed by getting together with the shipyards.

The full discussion of the presentation entitled "The Office of Workers' Compensation Program (OWCP)" can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 9.

Field Case Study (Flammable Liquids)

Mr. John Voss, OSHA Region 4

Mr. Voss presented a case that happened in Mobile about a year ago. The case closed about two weeks ago. This incident happened at an oil recovery company in Mobile, AL. It was a full-service environmental controlled cleanup and disposal company that specialized in industrial maritime work. The company was contracted to remove residual fuel from tanks and to clean the tanks. They had removed the fuel and were beginning to vent two 30,000-barrel barges that had previously contained natural gas and gasoline. Natural gas is odorless, colorless, and highly flammable. It is the first distillation of crude oil that is sold to refineries for final distribution. Each of the barges had six pneumatic blowers bored into it. Each blower was operated by a shore-side compressor. There are other hatches open to vent vapors out. An ORC employee started hearing some strange noises coming from one of the blowers on one of the barges. The compressor was shut down so employee would enter the barge to check on the noise. At the same time, a tugboat from American Electric Power pulled into the slip between the two barges. Employees on the barge tried to tell the tugboat captain to leave the area. The Captain of the tugboat could not shut the engines down, they are racing, and he could not hear the ORC employee. The Captain sent a deckhand to the engine room to check on the problem. Vapors ignited and the flame followed the vapors back to the barge and an explosion occurred. A few second later the second barge exploded. As a result of the explosion and fire, three people were hospitalized for thermal burns, one worked for the oil company, one was the crewman on the tugboat, and one was a radio technician who was on the tugboat doing a repair. OSHA's determination was that the flammable vapors from the barge migrated into the tugboat engines through the air intake. That is why the Captain

was unable to power down the engines; they were being fed fuel from an outside source. OSHA issued six serious citations and two other serious citations. The first citation was 1915.13(b)(7), that they have a competent person test the ventilation discharge area or other areas. This was a result of not performing the proper test, resulting in both barges being destroyed. The second violation was 1915.1(b)(11); air equipment was not boded to the vessels. The blowers had grounding wires on them and they were attached to the vessel itself. The third violation was 72(c)(2), there was no safe access provided to and from the barge. They had metal stairs that were prebuilt that only had handrails on one side. There was also a gap between the stairs and the barge of over 20 inches. The fourth violation was 82(d), that explosion-proof, self-contained temporary lights were no provided. They had 2D battery flashlights. The fifth violation was 132(e), that pneumatic tools were not secured to the hose to prevent accidental disconnection. The sixth violation was 157(a); employees did not wear appropriate clothing to protect against thermal burns. The clothing the employees were wearing was 65% polyester and 35% cotton and that is why when ignition occurred, the clothes started burning onto the employees causing additional injuries. One employee was on fire and another employee threw him into the river to put him out. Two other serious violations were issued. The compressed air manifold on the compressor that fed the blowers did not have its contents to supply air to those particular manifolds for air. The last violation was that safety datasheets from natural gasoline were not provided to members – Assistant Secretary upon request. They did not have the MSDS or SDSs available at the time of inspection. OSHA and the Coast Guard both conducted investigations. At the beginning, the employer wanted the Coast Guard to take over. However, OSHA still has jurisdiction because the Coast Guard has not come forward with any rules and regulations for tow vessels. The Coast Guard can and does do investigations if any kind of accident occurs on vessels. The inspection responsibility is shared with OSHA. As a result of the investigations, certain portions of the citations were deleted and/or reworded. An informal settlement agreement was reached about two weeks ago. Mr. Voss showed a video of the actual explosion and a series of slides of the explosion.

Q: Ms. Levin asked if it was a violation of an OSHA standard to allow the tugboat to pull into the slip.

A: Mr. Vos stated that the barges had two red flags, which indicate a condition that the tugboat should not have pulled into. The barges were properly marked. The Coast Guard has more regulations than OSHA for that particular operation. Mr. Vos stated that he did not know if there was sufficient lighting.

Q: Mr. Raffo asked if this was a designated cleaning pier.

A: Mr. Vos said it was their facility in which they were going to be cleaning and preparing for repairs to the barge and he did not think it was specifically designated for that operation all of the time.

The full text of the presentation entitled “Field Case Study (Flammable Liquids)” can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 10.

Longshoring Workgroup Report

Mr. Kelly Garber, Longshoring Workgroup Chair

The Longshoring Workgroup Committee is mostly made up with returning members. The Workgroup started on March 4, 2014 with a conference call in which they determined the items that they wanted to address and developed some plans moving forward. The first priority on the LSWG working agenda is jostling incidents which refers to semi-tractor drivers who, as a result of containers either being lifted while still somewhat attached to the chassis, picking up the tractor and subsequently dropping it or impact from a container being loaded to the chassis in an abrupt manner resulting in jostling of the cab and driver. Most of these injuries are soft tissue injuries, back injuries, and should injuries, from the violent motion within the cab. Fall protection for the log handling industry. There is a real challenge for fall protection. There may be other operations not related to logs that may have similar challenges. The LSWG will take another look at the issue and try to work with industry to try and come up with alternative means for fall protection when working on log ships. Within the cruise terminal industry, there are injuries to baggage handlers from heavy bags. The LSWG will study the statistics and determine the severity of the problem for longshore workers. There has been discussion throughout the international community of incorrectly declared weights on containers. Containers that weigh more or less than their stated weights can impact vessel stability and also impact operators on shore with the equipment used to handle the containers. This is an issue for containers coming into the US from overseas. Mr. Lynch (LSWG member) has done a lot of work on the East Coast and the Longshoring Workgroup will be looking through those statistics for an opportunity to make some resolution on this issue. Cargo securing operations, the lashing and securing of containers onboard ships, impact making a safe working are on ships. In many cases, the lashing bridges used by workers to secure containers are not adequate and there may not be places for people to stand that are in supervisory roles for the people securing the cargo. Mr. Garber provided a list of published documents to be translated to Spanish. The list is weighted in order of importance to the LSWG.

Q: Ms. Conrad asked what kind of injuries or incidents are seen with incorrectly declared weights on containers.
A: Mr. Garber responds that the first issue is with ship stability. There have been a number of reported instances where there has been vessel damage or collisions or capsizing, even at birth, as a result of incorrectly declared weights. Shore side, they have not seen any injuries, but the potential of an equipment operator picking up a container and not knowing its actual weight could cause the equipment to pitch forward.

The full text of the presentation entitled "Longshoring Workgroup Report" can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 11.

Shipyard Workgroup Report
Mr. Don Raffo, Shipyard Workgroup Chair

Mr. Raffo thanks returning members of the Shipyard Workgroup and introduces their new member, Ms. Sly. The workgroup held a conference call on met on April 4, 2014. The SYWG discussed some of the carryovers from the last MACOSH, new items, and set their agenda for this initial meeting. During the initial conference call, the workgroup came up with a list of five prioritized topics that they wanted to discuss. The first topic listed is prioritization of documents to be translated to Spanish. Robert Godinez (LSWG member) is going to start working translations, starting with the Fire Watch Safety QuickCard, which he will have to the workgroup before the next meeting of the Full Committee. The next document was a ship's document that the Agency put together called "Surface Preparation." The workgroup suggest that the title be changed to "Surface Preparation and Preservation." They also plan to incorporate a document about spray paint safety into this document. There was also interest in topics on respirator use and the safe work practices for surface preparation, which will also be incorporated into the surface preparation document. Crane safety is limited to the pedestal cranes seen on fishing vessels. There have been several incidents where they have been modified to lift more than their capacity and the cranes have been ripped right out of the deck. The SYWG discussed developing a QuickCard with a pre-operation checklist and pair it up with a fact sheet. Shipyard refrigeration system has to do with conversion from the different types of Freon. Many of the fishing vessels are going from R-22 ammonia. The workgroup wants to get some information out on two areas: emergency response at sea if there is a leak in the ammonia system; and possibly a QuickCard on repair and maintenance and tips on some of the hazards of working with ammonia in refrigeration systems

The full text of the presentation entitled "Shipyard Workgroup Report" can be viewed at www.regulations.gov under OSHA docket number OSHA-2013-0007 as Exhibit 12.

Full Committee Open discussion

Closing remarks are made by Mr. Thornton. He asks members to think about the August/September time frame for an additional meeting, most likely in Washington, D.C. An email will be sent out. Closing remarks were also made by Ms. Sly, Mr. Harrison, Mr. Johnson, Mr. Garber, Mr. Godinez, Mr. Rone, Mr. Raffo, Mr. Conrad, Mr. Podue, Mr. Lynch, and Mr. Halpin.

The full committee open discussion can be found in the official meeting transcript under OSHA docket, OSHA-2013-0007 at, www.regulations.gov.

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Adjournment

The meeting is adjourned.

I hereby certify that, to the best of my knowledge, the foregoing minutes are an accurate summary of the meeting.

Submitted by:



James Thornton
MACOSH Chair
Date: July 14, 2014