

MEETING SUMMARY
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
MARITIME ADVISORY COMMITTEE FOR OCCUPATIONAL SAFETY AND HEALTH (MACOSH)
February 23, 2012
U.S. Department of Labor, Washington, D.C.
Docket Number OSHA-2012-0003

The entire transcript of this meeting can be viewed at www.regulations.gov under docket number OSHA-2012-0003

MACOSH Members Present

James Thornton – American Industrial Hygiene Association – (Committee Chair)
Ken Smith – United States Coast Guard
Donald Raffo – General Dynamics
Kelly Garber – API Limited
Charles Lemon – Washington State Department of Labor and Industries
Arthur T. Ross – Texas Terminals L.P.
Michael Flynn – International Association of Mechanics & Aerospace Workers
Robert Godinez – International Brotherhood of Boilermakers
Philip Dovich – Marine Chemist Association
Karen Conrad – North Pacific Fishing Vessel Owners Association
Christopher McMahon – U.S. Department of Transportation, Maritime Administration
Tim Podue – International Longshore & Warehouse Union
Lesley Johnson – International Brotherhood of Electrical Workers
Eric Richardson – Department of Labor, Office of Workers' Compensation Programs

MACOSH Members Absent

George Lynch – International Longshoremen's Association

DOL Support Staff Present

Dorothy Dougherty
Bill Perry, Acting MACOSH Designated Federal Official
Amy Wangdahl
Vanessa Welch
Danielle Watson
Christie Garner
Veneta Chatmon
Jennifer Levin –Counsel for MACOSH

OSHA Guest Presenters to MACOSH

Dr. David Michaels – Assistant Secretary of Labor for Occupational Safety and Health
Eric Richardson – On behalf of Gary Steinberg, Office of Workers' Compensation Programs
Patrick Kapust – Deputy Director, Directorate of Enforcement Programs
Jim Maddux – Director, Directorate of Construction Programs
Tina Jones – Director, OSHA Office of Science and Technology Assessment

Members of the Public and Other OSHA Staff Present

Cameron Williams – ILWU
Jeff Smith – ILWU
Tracy Bruchett – ILWU
Paul Mellon – President of Novetas Solutions
Miranda Chiu – Director, Division of Longshore and Harbor Workers' Compensation Programs
David Ayers – Consortium for Ocean Leadership
Brandon Miller – Office of Workers' Compensation Programs Longshore Division
Jerry Swanson – Pacific Maritime Association
Glenn Shor – OSHA, the Office of the Assistant Secretary
Ian Bennett – Shipbuilders Council of America
Mark Eisenberg – CP&O Stevedores, Norfolk, Virginia
Jim Wulff – OSHA Region 9
John Vos – OSHA Region 4
David Doucet – OSHA, Houston North

John King – Office of Maritime Enforcement
Julia Navarro – OSHA National Office
Michelle Myers – American Wind Energy Association
Dan Glucksman – International Safety Equipment Association
James Sammons – Signal Administration, Norfolk, Virginia
Angelo Costa – OSHA Region 3
Kevin Sullivan – OSHA Region 2
Katie Nishimura – OSHA Region 1
Paul Comolli – OSHA Office of Maritime Enforcement
Brian Drake – OSHA Region 7
Jeff Facenda – General Dynamics, NASSCO, Norfolk
Steve Butler – OSHA Office of Maritime Enforcement
Polly Parks – Southern Recycling

Opening Remarks and Review of Minutes

Mr. Thornton welcomed the Committee and the public to the meeting, and explained how the Committee and Workgroup meetings would proceed. Mr. Thornton announced that Jennifer Levin would serve as the Committee counsel, replacing Susan Brinkerhoff. He also stated that Bill Perry is currently serving as the Acting DFO. Mr. Perry then introduced the new MACOSH members and counsel to the Committee.

The Committee reviewed the minutes from September 19, 2011, meeting in Portland, Maine, and approved them without change. The document entitled “MACOSH meeting minutes September 19, 2011, Portland, ME” was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 2.

Eric Richardson, Office of Workers’ Compensation Programs

This presentation can be found on pages 22-37 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Mr. Richardson thanked the Committee on behalf of Gary Steinberg, the Acting Director of OWCP, and on behalf of Miranda Chiu, the Director of the Division of Longshore and Harbor Workers' Compensation, for the opportunity to share information that would support the Committee’s work in protecting the workforce.

Mr. Richardson gave a brief overview of OWCP’s functions and workers compensation data. The OWCP mission is to provide administrative oversight of benefit delivery, which is provided primarily by self-insured employers and insurance carriers. In addition, OWCP provides technical support to injured workers, employers, and insurers. OWCP has four major programs: Federal employees, Longshore and Harbor Workers, Black Lung, and Energy Employees.

The Longshore and Harbor Workers program covers several types of workers. About half of the claims are Longshore and Harbor (L&H) workers claims. About 35 percent are from Defense Base Act employees. Approximately 15 percent of the claims are from non-appropriated fund instrumentalities and military installations, and the Outer-Continental Shelf. The office receives between 28,000 and 30,000 thousand total claims per year, half of which involve employees in classic maritime, stevedoring, shipyards, and boat building. OWCP has 12 district offices around the country in major port cities. The offices receive the individual claim files, and provide oversight and dispute resolution services in contested cases. He described the fact-finding and appeals process for claims that are not resolved informally. The district offices also provide vocational rehabilitation services to help injured workers with some permanent restrictions return to work. There are only 100 employees in OWCP to handle 28,000 claims a year.

Mr. Richardson responded to questions from Committee members and provided further explanation of OWCP’s functions and data-collection activities.

The PowerPoint presentation entitled “Office of Workers’ Compensation Report” was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 3.

Remarks of Dr. David Michaels Assistant Secretary for Occupational Safety and Health

This presentation can be found on pages 39-51 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Dr. Michaels welcomed and thanked the Committee for attending the fourth meeting under the MACOSH charter. He stated that OSHA is grateful for the important work of the Committee. Dr. Michaels announced that Amy Wangdahl is now the Director of the Office of Maritime and Agriculture, and she will serve as the Designated Federal Official for MACOSH. He stated that the Office's name change does not diminish the work of the Committee or OSHA's commitment to helping maritime industry employers prevent injuries and illnesses.

Fiscal Year (FY) 2012 Budget – OSHA received a slight increase for FY-12, and will continue to operate as usual. OSHA is making great efforts to reduce expenditures because of fiscal belt-tightening. He noted that due to the pressure to reduce funds spent on travel, it may be necessary for MACOSH to hold fewer meetings per year, and also to curtail meetings in locations outside of Washington, D.C. Dr. Michaels stated that MACOSH is one of the most productive committees within OSHA, and the Agency values the Committee's advice, and the Committee's service has a beneficial impact on safety and health in the Nation's ports and the shipyards. The Agency will do whatever it can to minimize any detrimental impact on the work of the Committee because of fiscal belt-tightening.

Update on MACOSH guidance products – On February 14, OSHA published the guidance document entitled "Protection Against Radiant Energy During Welding and Cutting in Shipyards." Several MACOSH guidance products are in the OSHA clearance process. The Agency plans to publish several of the documents soon.

Injury and Illness Prevention Programs – This area is an Agency priority. MACOSH is working on providing advice to the Agency on this issue.

MACOSH Charter – The MACOSH charter will expire on January 25, 2013. Reestablishing the Committee's charter is a lengthy process. The Agency is committed to continuing this Committee and will begin working on the necessary documents to start the rechartering process, including a Federal Register notice seeking nominations to serve on the Committee.

Dr. Michaels thanked the Committee members for their work. He then responded to questions from Members and the public. Mr. Thornton thanked Dr. Michaels for leading the Agency.

Analysis of the Cost of Injuries Using Workers' Compensation Data
Glenn Shor, Special Assistant, Office of the Assistant Secretary

This presentation can be found on pages 52-72 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003

Mr. Shor presented preliminary figures related to the cost of workers' compensation claims in the general economy. He explained that workers' compensation data can be used in many ways to estimate the frequency, magnitude, severity, and the cost of compensated occupational injuries, and to examine trends over time. OSHA, workers' compensation insurers, employers, and self-insured employers can all use workers' compensation data for loss prevention activities. Mr. Shor also explained that there are numerous obstacles to using workers' compensation data to estimate costs.

OSHA uses some workers' compensation cost figures for its "Safety Pays" website. The website takes the average cost of an injury from a national sample of injury costs. It gives an idea of the revenue lost due to employee injuries or the need to make up revenue to achieve a consistent profit margin. The website also allows interested parties to input the type of injury and find the average national cost for that type injury.

The rough estimated data shows the average cost of an injury under the Longshore and Harbor Workers' Compensation Act, which is estimated at about \$30,000 - \$35,000 dollars per lost-time claim. It also informs the employer of the cost of an injury, what the employer could do to prevent injuries, and the cost associated with preventing injuries. Mr. Shor also shared some general observations about OSHA's analysis of the cost of injuries in other areas of employment.

Mr. Shor's PowerPoint presentation entitled "Analysis of Cost of Injuries using Workers' Compensation Data" was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 4.

Mr. Shor then responded to questions from members of the Committee.

Enforcement Update

Patrick Kapust, Deputy Director, Directorate of Enforcement Programs

This presentation can be viewed on pages 72-105 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Mr. Kapust summarized OSHA's current enforcement activities for the Committee. He reviewed the status of several National Emphasis Programs. Mr. Kapust discussed OSHA's new Severe Violator Enforcement Program. Other topics discussed by Mr. Kapust included: OSHA's new penalty policy; corporate-wide settlements; OSHA directives that are under development or were recently issued; and the new Field Operations Manual.

Mr. Kapust discussed maritime enforcement projects and initiatives, including maritime directives in development. He noted that, since 2011, the Office of Maritime Enforcement (OME) has assisted OSHA field offices on over 20 investigations, 5 significant cases, with one case currently pending. Mr. Kapust provided data on the number of inspections and citations to date in the current fiscal year, both in general industry and in maritime. He noted that the current average penalty per serious violation is \$2,100. The figure increased in the maritime industry due to changes in the penalty policy. The most frequently cited standards in the maritime industry are Haz-Com, electrical, and powered industrial trucks.

The presentation entitled "Directorate of Enforcement Update" was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 5.

Mr. Kapust then responded to questions from Committee members.

Standards Improvement Process IV Update and Motor Vehicle Backover Protection

Jim Maddux, Director, Directorate of Construction Standards

This presentation can be found on pages 106-130 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Mr. Maddux informed the Committee that OSHA is developing a Request for Information (RFI) to discuss two subjects, reinforced concrete in construction and preventing backover injuries. He explained that the focus of the RFI is to look at vehicles other than over-the-road vehicles that are used in the workplace.

Mr. Maddux described the Standards Improvement Process, through which OSHA scrutinizes its regulations for outdated or duplicative standards that are not relevant in the workplace. The SIPs process also allows OSHA to accomplish other objectives, such as reducing the paperwork burden to employers. SIPs IV focuses on construction.

The PowerPoint Presentation entitled "Standards Improvement Process IV Update and Motor Vehicle Back-Over Protection" was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 6.

Mr. Maddux then responded to Committee Members' questions.

Directorate of Technical Support and Emergency Management (DTSEM) Update

Tina Jones, Director, Office of Science and Technology Assessment

This presentation can be viewed on pages 130-154 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Ms. Jones provided the Committee with an overview of the Directorate's functions. She stated that DTSEM provides technical support for the field and develops compliance assistance products, for example, fatality videos and the Safety and Health Information Prevention Sheets (SHIPS) documents.

She said that DTSEM has created numerous Web resources, including animated videos on hazards in the construction industry, and Web Pages on a number of topics.

OSHA would like MACOSH's help to identify areas that may have gaps that OSHA could address through a safety and health topics page or updates to eTools. She cited the eTools related to shipyards as a resource that MACOSH could review and provide OSHA with input about needed changes.

Ms. Jones informed the Committee that as part of OSHA's Operating Plan, there is a formal initiative underway to centralize information on emerging issues in occupational safety and health. Ms. Jones asked the Committee to consider if their constituencies may have emerging issues in their workplaces they would like OSHA to begin monitoring.

Ms. Jones discussed OSHA's Workplace Emerging Issues Surveillance and Response System (WEISRS). OSHA will continue to monitor both traditional and nontraditional surveillance mechanisms to see how the Agency can characterize risks. As the Agency receives information, OSHA will decide if there is a need for a NEP, LEP, or setting new standards.

Ms. Jones described the heat-stress campaign that OSHA launched last year. OSHA developed a heat-index mobile device application, or "app" to protect workers from heat-related hazards. The app addresses factors for mediating heat stress such as water, rest, and shade; it also has information on acclimatizing workers and developing work-rest schedules, as well as implementing alternatives such as adjusting the time of work activities, and being aware of the effects of personal protective equipment. The app can calculate the heat index using information received on a GPS location from NOAA, or by entering temperature and humidity data directly. Once the app calculates the information, it provides risk levels and basic reminders about heat hazards and ways to prevent heat-related illness.

Ms. Jones also informed the Committee that both Department of Labor and OSHA are developing an information campaign directed at young workers.

Ms. Jones' presentation entitled "Directorate of Technical Support and Emergency Management (DTSEM) Update" was entered into the record at Docket Number OSHA-2012-0003 as Exhibit 7.

Longshoring Workgroup (LSWG) Report Ken Smith, Workgroup Chair

This presentation can be found on pages 155-191 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Since the last MACOSH meeting, the LSWG held six conference calls and finalized five documents, including three Quick Cards and two Fact Sheets. The LSWG reviewed three documents for the Shipyard workgroup, which included two Fact Sheets and a white paper.

The workgroup also discussed topics that were of concern to the longshoring industry. Those topics included: the Fukushima incident and related problems, including moving debris; exploding reefers; and the International Maritime Organization's (IMO) declaration of weights associated with containers.

The workgroup discussed providing input to OSHA on the impact of I2P2 programs in longshoring operations. On the West Coast and the Gulf Coast regions, most of the states require a program similar to I2P2. However, the Workgroup was not able to obtain information on East Coast programs. The LSWG decided not to develop a statement on I2P2 for longshoring because of the lack of information on the East Coast.

The LSWG is currently working on a guidance document for log-handling operations. The LSWG showed a video depicting various types of log-handling operations. Jeff Smith (public participant) of the ILWU provided explanations of the log-handling work displayed in the video.

The LSWG plans to focus on container-handling operations as its next topic. The Workgroup is aware of the recent rise in the number of container-related casualties. Other topics discussed include jostling in cabs, confined space entry, and diving operations.

The LSWG asked that the Committee approve and recommend to OSHA the following documents: "Top/Side Handler Safety" Quick Card; "Semi Tractor Tip-Over" Quick Card; "Stay Focused on Safety While Working on and Around Cargo Handling Equipment" Quick Card; "Personnel Safety Zones for Non-Dock Container Rail Operations" Fact Sheet; and "Hot Work on Hollow Structures" Fact Sheet. All of the documents were reviewed and approved by the SYWG prior to this meeting. Mr. Smith made a motion for the Committee to accept and forward the guidance products to OSHA for publication. The Committee unanimously voted in favor of accepting the documents. The document entitled "Top/Side Handler Safety" Quick Card was entered into the Docket as OSHA-2012-0003 as Exhibit 8. The document entitled "Semi Tractor Tip Over" Quick Card was entered

into the Docket as OSHA-2012-0003 as Exhibit 9. The document entitled “Stay Focused on Safety While Working On and Around Cargo Handling Equipment” Quick Card was entered into the Docket as OSHA-2012-0003 as Exhibit 10. The document entitled “Personnel Safety Zones for On-Dock Container Rail Operations” Fact Sheet was entered into the Docket at OSHA-2012-0003 as Exhibit 11.

Mr. Smith discussed the LSWG Fact Sheet entitled “Hot Work on Hollow Structures.” This document was still in draft form, as the SYWG has not yet reviewed the final version incorporating the changes it suggested. The “Hot work on Hollow Structures” Fact Sheet dated February 17, 2012, was entered into the docket at OSHA-2012-0003 as Exhibit 12. After discussion, the Committee unanimously decided to withdraw the document, make final changes, and present the document with all the recommended changes incorporated at the next MACOSH meeting.

The Committee unanimously voted in favor of accepting the Longshoring Workgroup report.

The PowerPoint presentation entitled “Longshoring Workgroup Report” was entered into record at Docket Number OSHA-2012-0003 as Exhibit 18.

Shipyard Workgroup (SYWG) Report Don Raffo, Workgroup Chair

This presentation can be found at pages 192-243 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

The SYWG held four conference calls since the last MACOSH meeting. The SYWG reviewed and approved the Longshoring WG documents recommended to OSHA today.

The LSWG reviewed the “Safe Practices for Sewage Tank Entry and Work” Fact Sheet, and its comments were incorporated into the document. The Committee unanimously voted to accept the document. The document entitled “Safe Practices for Sewage Tank Entry Work” Fact Sheet was entered into the docket OSHA-2012-0003 as Exhibit 13.

Philip Dovinh of the SYWG is working on a more extensive guidance document addressing entry work when cleaning sewage tanks. The SYWG expects the document to be completed in about a month. Once the document is complete, it will be submitted to the LSWG for review and comment. The SYWG’s goal is to have the product accepted at the next meeting.

The white paper entitled “Eye Injury Reduction” advises the Agency on the issues regarding the high rate of eye injuries in shipyards and the ship-repair industry. The four-page document was reviewed and approved by the LSWG. The Committee unanimously accepted the document. The document entitled “Eye Injury Reduction” White Paper was entered into docket number OSHA-2012-0003 as Exhibit 14.

The SYWG developed a Quick Card and a Fact Sheet entitled “Hot Work on Hollow Structures in Shipyard Employment.” Both shipyard documents were submitted and reviewed by the LSWG. The Fact Sheet addresses shipyards and the shipbuilding and repair industry. The Committee discussed corrections to the document, and agreed on these revisions. The Committee unanimously voted to accept and recommend the document to OSHA for publication. The Fact Sheet entitled “Hot Work on Hollow or Enclosed Structures in Shipyard Employment” was entered into docket number OSHA-2012-0003 as Exhibit 15.

There was a lengthy discussion on corrections made to, and formatting of, the Quick Card entitled “Hot Work on Hollow or Enclosed Structures in Shipyard Employment.” The Committee unanimously voted to accept the changes, and recommended that OSHA publish the document. The Quick Card entitled “Hot Work on Hollow or Enclosed Structures in Shipyard Employment” was entered into docket number OSHA-2012-0003 as Exhibit 16.

OSHA asked the SYWG to review and comment on the Fact Sheet addressing ventilation. The SYWG discussed the document during its first two conference calls, and concluded that the document provided too much general information to be useful to workers. The SYWG decided to develop a guidance document on ventilation targeted to both employers and workers. The SYWG then developed an outline, and assigned workgroup members to draft the sections of the document, including: why use ventilation; space and ventilation requirements; types of ventilation; how to determine what type of ventilation to use; proper ventilation practices; how much ventilation is enough; and OSHA ventilation requirements. The SYWG plans to complete the document, provide it to the LSWG for review

prior to the next MACOSH meeting, and have the entire committee approve and recommend the document to OSHA for publication.

At the beginning of the current charter, OSHA asked the Committee to provide suggestions for developing an I2P2 program for the maritime industries. The SYWG discussed the topic, and struggled with determining the necessary components and how small shipyards could comply with such requirements without being unduly burdened. The SYWG reviewed the program in the Section 1915 "Brown Book." The program has eight major components, and the SYWG summarized the components. The workgroup then asked Mike Seymour of OSHA to provide more information about the current status of I2P2, and what he would like from the Committee. The SYWG subsequently decided to develop a guidance document based on best practices. The document will address helping small shipyards demonstrate to OSHA that they have the elements of a health and safety management program. An initial outline will be developed as a model format. The various sections will be assigned to workgroup members for development. The goal is to have the document completed by the end of the current charter.

Mr. Raffo reviewed a list of guidance products completed by the SYWG, which included the items recommended to OSHA during this meeting, and the "Fire Protection" Quick Card and "Welding Shade Protection" Fact Sheet that were published by OSHA.

Mr. Smith and Mr. Raffo concurred that the "Persons in the Water" Fact Sheet and Quick Card be finalized and brought before the Committee at the next meeting. Chairman Thornton suggested that the Longshoring Workgroup develop a chart similar to the SYWG chart to keep track of products. The Committee unanimously voted in favor of accepting the SYWG report.

The PowerPoint presentation entitled "Shipyard Workgroup Report" was entered into the record at Docket Number OSHA 2012-0003 as Exhibit 17.

Open Discussion – Full Committee

This discussion can be found on pages 260-277 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Mr. Thornton called on all Committee members to make closing comments. Several members thanked their fellow Committee members and OSHA staff for their hard work and ideas. Several members stated that it was important for OSHA to publish without delay the guidance documents written by the Committee. Others remarked that, while the workgroup structure works well, the workgroups should increase their communication with each other to facilitate document review and editing. Members also stated that face-to-face meetings are important to the Committee's success. Members also mentioned that it would be helpful to track the progress of guidance documents as they are being worked on by the workgroups, and also within OSHA once they have been approved by the Committee.

Public Comments

Paul Mellon discussed the health hazards posed by beryllium exposure in the abrasive-blasting industry, including shipyards. He stated that it is possible that MSDSs for coal and copper slag will be changed to disclose beryllium content. He urged the Committee to review the information OSHA has on this subject and to inform the shipyard industry about the hazards of beryllium exposure.

Jerry Swanson stated that he believed it is important for OSHA to disseminate guidance products as expeditiously as possible. He also added that there are products from the last charter that are still unpublished. He also agreed that OSHA should track all the products submitted to the Agency. Mr. Swanson stated that face-to-face meetings are important to the work of the Committee.

Closing Remarks by MACOSH Chair Thornton and Adjournment

This discussion can be found on pages 277-280 of the meeting transcript at www.regulations.gov under docket number OSHA-2012-0003.

Mr. Thornton expressed his appreciation to the Committee members, who have devoted significant time to attend the Committee meeting and workgroup teleconferences. He also stated that the work of the Committee is making a difference in preventing injuries, and that the Committee's work in protecting workers is important.

Mr. Thornton told the Committee that he was humbled and honored to lead the Committee. Mr. Thornton thanked the OSHA staff for organizing, and he thanked the public for participating in the workgroup and committee meetings. The meeting of the Maritime Advisory Committee for Occupational Safety and Health was adjourned at 4:28 p.m.

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: May 21, 2012