

Meeting Minutes
The Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

May 20, 2009

The Maritime Advisory Committee for Occupational Safety and Health was convened for its second meeting under the current charter at 8:18A.M. on May 20, 2009, at the Sheraton Anchorage Hotel, Anchorage, AK. The meeting was adjourned at 3:15 P.M.

In accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, the full committee meeting and the workgroup meetings held on May 19, 2009, were open to the public.

Committee members present were:

James Thornton, Chairman
Alan Davis
Alton H. Glass, Sr.
Kenneth Killough
Charles R. Lemon
Jennifer M. Lincoln
George S. Lynch, Jr.
Marc MacDonald
Tim Podue
Donald V. Raffo
Barry E. Richardson
Kenneth A. Smith

Committee Staff in attendance were:

Susan Brinkerhoff, Counsel
Bill Perry, Designated Federal Official
Amy Wangdahl, Shipyard Workgroup Representative
Danielle Watson, MACOSH Liaison
Vanessa Welch, Longshore Workgroup Representative
Christie Garner, Administrative Assistant
Veneta Chatmon, Meeting Coordinator

Staff of the Occupational Safety and Health Administration in attendance were:

Dorothy Dougherty, Director, Directorate of Standards and Guidance
Scott Ketcham, Area Director, Region X
Randy White, Area Director, Region X
John Casper, Compliance Officer, Region X

Matt Pauley, Compliance Officer Region X
Jack Reich, Compliance Officer, Region IX

Roll call was taken and a summary of the meeting agenda was given by Jim Thornton. The meeting minutes from the previous meeting, held in Washington, D.C. on March 24, 2009, were unanimously approved by the Committee and entered into the record under Docket OSHA-2009-0007 as Exhibit H.

Remarks

Ms. Dorothy Dougherty, Director,
Directorate of Standards and Guidance

Ms. Dougherty welcomed the Committee members and the public to the second meeting of the re-chartered Maritime Advisory Committee for Occupational Safety and Health (MACOSH). She commended the Committee on their effectiveness at the previous meeting held in Washington, D.C., where the Committee immediately began work on developing the agenda items for the current charter and began assigning tasks among the members and OSHA staff.

Additionally, Ms. Dougherty spoke of how pleased she was to see the Committee working again and that she looks forward to hearing their recommendations and seeing the products that develop from all of their hard work. She also discussed how, since the previous meeting, Jordan Barab was named Deputy Assistant Secretary of Labor for Occupational Safety and Health and began serving also as the Acting Assistant Secretary.

Ms. Dougherty gave a PowerPoint presentation that provided an OSHA update of the spring 2009 regulatory agenda. Some of the agenda items that were discussed were: Diacetyl, Combustible Dust, General Working Conditions in Shipyard Employment, Cranes and Derricks, Infectious Disease, Beryllium, Silica, Globally Harmonized System (GHS), Hearing Protection, and Explosives.

Ms. Dougherty's presentation was entered into the record under Docket OSHA-2009-0007 as Exhibit I.

Remarks

Mr. Jordan Barab, Acting Assistant Secretary of Labor for
Occupational Safety and Health

Mr. Barab joined the meeting via teleconference. He welcomed the Committee members and thanked them for their service and great work. He also gave specific thanks to Mr. Thornton for continuing to chair the Committee.

Mr. Barab discussed the events of Workers' Memorial Day, which took place on April 28, 2009. On this day, Hilda Solis, the Secretary of Labor, traveled to the National Labor College in Silver Spring,

MD and delivered a speech before the ground breaking of a memorial for fallen workers. Mr. Barab summarized Ms. Solis's speech in which she expressed her belief in vigorous enforcement of the laws to protect workers without causing undue burden for employers, as well as the Department of Labor's commitment to providing a strong federal role in protecting workers. He also described the Agency's certainty that most employers want to do the right thing, which is why OSHA continues to work with employers. As an example, he cited the maritime industry's decline in occupational injuries, illnesses, and lost workday rates over the last ten years. Mr. Barab also remarked on the need for employers receiving money from the Recovery Act to comply with OSHA regulations and OSHA's intent to enforce regulations on Recovery Act-funded worksites. He also highlighted several other OSHA projects.

- The Agency is working on many compliance assistance documents, several of which focus on construction. These documents are highlighted on the OSHA webpage.
- A new combustible dust standard is in development, the need for which was reinforced by a recent explosion at the Imperial Sugar factory in Georgia, killing fourteen workers.
- Several guidance and outreach products have been produced that focus on the recent pandemic flu (H1N1) outbreak and healthcare workers who are on the frontline. The goal of the Agency is to ensure that these workers are protected, educated, and trained about the virus. In addition, the guidance spotlights the need for proper precautions and which personal protective equipment (PPE) to use, such as respirators. The shorter publications are being issued in English, as well as in Spanish, and all of the guidance products can be found on the OSHA webpage.
- The revised Shipyard Industry Digest was published during the week of May 11, 2009. This product compiles major applicable safety and health standards for the shipyard industry and adds three standards that have been finalized since the last edition in 1998. These additions include: Fire Protection for Shipyard Employment, Hexavalent Chromium, and Employer Payment for PPE. This document is also published on the OSHA webpage.
- On April 28, 2009, guidance on controlling silica exposure in construction was published. An electronic version of this document is posted on the OSHA website.
- A new guidance document for combustible dust has been developed and is currently going through Agency review.
- OSHA drafted a Ship Scrapping Document to help employers and employees maintain a safe work environment while engaged in scrapping of ships. This document is currently being reviewed by Agency staff at the National Office and in regions with maritime experience.

Region X

Mr. Scott Ketcham, Area Director
Region X

Mr. Ketcham expressed his pleasure to be able to address MACOSH and thanked everyone, including his compliance officers and staff, for all of their hard work in helping to ensure worker safety.

He briefly described his background, having worked for OSHA thirteen years and an overall nineteen years as a safety and health professional. Mr. Ketcham then began a PowerPoint presentation, sharing some interesting facts about Alaska, and talked about his office's involvement with the maritime industry. The Anchorage office conducts approximately 125 inspections annually, focusing on safety at shipyards, boat repair facilities, marine cargo handling facilities, off-shore oil drilling platforms, commercial diving facilities, and fisheries. Of the approximate 125 annual inspections, 32 focus on fisheries. A majority of the fish operations in Alaska occur in remote locations such as Dutch Harbor. This harbor is located in the Aleutian Islands and produces approximately 50% of the United States' seafood.

In addition Mr. Ketcham discussed his belief that OSHA, along with industry and workplace practices, has made a difference. Cooperatively through regulation, enforcement, and compliance assistance, value has been added to businesses, work, and life. Since 1971 workplace fatalities have decreased over 60% and occupational injuries and illnesses have declined 40%. The Committee and members of the public were then welcomed to ask questions.

The PowerPoint presentation was entered into the record under Docket OSHA-2009-0007 as Exhibit G.

Hot Topics Discussion

Mr. Bill Perry, Deputy Director,
Directorate of Standards and Guidance

Mr. Perry welcomed all in attendance and thanked the Committee members for their hard work in the workgroup sessions on May 19, 2009. He explained that OSHA's intent in adding a "Hot Topics" discussion was to cover recent topics that the Agency would like to share with the Committee and receive input. Mr. Perry initiated discussion on three topics.

Cranes and derricks - The Directorate of Construction published a proposed standard pertaining to new requirements for the certification of crane operators. It is still unclear whether this standard will impact the maritime industry. It depends under which standard certain operations in marine facilities fall (e.g., 29 CFR part 1910, 1915, or 1926). The Directorate of Standards and Guidance is currently under the assumption that when the operation is clearly shipbuilding, ship repair, and

shipbreaking, the workers are covered under 29 CFR part 1915. However, when shipyard workers are performing tasks that are incidental to, but do not directly involve, shipbuilding, ship repair, or shipbreaking, it becomes difficult to determine under what category the work falls; that is, is it a general industry, construction, or maritime operation? Such tasks could be termed “related employment.” This term is defined in 29 CFR 1915.4 as “any employment performed as an incident to or in conjunction with ship repair, shipbuilding, or shipbreaking work, including, but not restricted to, inspection, testing, and employment as a watchman.”

Initial discussion on “related employment” occurred in the shipyard workgroup meeting on May 19, 2009, and then carried over to the full committee meeting. The workgroup has been asked to provide the Agency with examples of related employment in shipyard employment.

Standards Improvement Projects (SIPs) – Standards Improvement Projects (SIPs) are regulatory projects that OSHA has been working on to update existing standards by deleting obsolete sections and/or by adding clarifications. The changes would be fairly low impact; employers would not have to do a lot to comply; and some employers may be relieved of having to continue certain previously required operations. Two SIPs rulemakings have been published, and OSHA is currently working on Phase Three of this project.

In December of 2006, the Agency published an advance notice of proposed rulemaking (ANPR), which included several questions related to performing hazard assessments for determining personal protective equipment (PPE) requirements for various tasks. In 29 CFR 1910 and 1915 there is an explicit requirement for employers to certify that they have performed a hazard assessment to determine what PPE is necessary for what type of task, provide the proper PPE, and ensure that employees are using the PPE when they are performing those tasks. However, this requirement is absent from 29 CFR 1917 and 1926. In response to the ANPR, OSHA received a number of comments from the longshoring industry questioning the need for the hazard assessment to be written and posted at the worksite. They felt that this requirement would be a large paperwork burden and would provide little improved protection for workers.

During the MACOSH meeting, OSHA requested that the Committee provide input regarding the PPE issue in revising the longshoring standard. Several of the Committee members commented, and the overall opinion was that a requirement to have a written standard wasn’t necessary. They explained that the standard practice among the longshoring industry has been to wear the required PPE from the time they enter the marine terminal until they leave, which makes it difficult to forget. In addition, one member expressed his personal opinion that, in some cases, PPE requirements present more danger for the workers (e.g., safety vests that become loose clothing). OSHA is presently developing a proposed rule for SIPs regarding PPE that will be based in part on comments and guidance the Agency has received or will receive from the Committee.

Pandemic Flu – In response to the swine flu, OSHA developed a fact sheet and a quick card on this topic. The fact sheet was developed to give employers a simple description of the measures to take in the workplace to minimize the impact of flu infection. The quick card, a one-page document with

English on the front and a Spanish translation on the back, is directed at workers and explains the steps they need to take to protect themselves. It emphasizes respiratory protection, social distancing, supplies, and engineering methods. In addition, OSHA is working on two guidance documents relating to risk assessment in planning for pandemic flu and stockpiling respirators. Both documents lay out a “pyramid” concept that will help employers look at each person’s job and evaluate their infection risk.

OSHA requested that the Committee look over the fact sheet and quick card and provide feedback as to whether they think this type of information and format are useful to the maritime industry.

Shipyard Workgroup

Mr. Donald V. Raffo

Workgroup Leader

Mr. Raffo gave a report on the Shipyard workgroup’s meeting. What follows are the workgroup’s top priorities as determined at the previous meeting and their status.

Surface Preparation and Preservation, Subpart C – This was a carryover item from the previous charter where the Committee made a recommendation to OSHA to update and review the regulations in 29 CFR part 1915, subpart C. The workgroup provided OSHA with material safety data sheets (MSDSs) of common paints and coatings used in shipyards, which were entered into the record as Exhibit K under Docket OSHA-2009-0007. Additionally, the workgroup commented that the current standard is out of date with existing technology. Paints now have higher flashpoints, making the flammability of paints less of a problem; however, toxicity has become more of an issue, making respiratory protection necessary. The workgroup recommended that OSHA look into separating the requirements pertaining to flammability and toxicity. During the previous MACOSH charter, the Committee provided OSHA with a side-by-side comparison of the current regulations with proposed regulatory text changes. The workgroup plans to expand upon the preceding group’s work and hopes to present it to the full Committee at the next meeting.

Safety and Health Injury Prevention Sheets (SHIPS) Documents – OSHA has sought advice from MACOSH on SHIPS guidance documents in the past. The most recent SHIPS, covering rigging, was provided to the shipyard workgroup during their workgroup session on May 19, 2009. The workgroup will review the document and provide comments to OSHA, which will be incorporated into the document and shared with the full Committee to vote on. The SHIPS rigging document was submitted into the record under Docket OSHA-2009-0007 as Exhibit L.

Arc Flash Guidance – The Navy’s move towards high voltage in ships, introduces an increased level of danger for the employees working on these vessels. At the previous MACOSH meeting, the workgroup recommended that OSHA develop a guidance document on arc flash hazards from high voltage equipment in shipyards. However, after conducting a brief literature search the members discovered that there is quite a bit of information on this topic. The workgroup plans to discuss this

topic further to determine if the industry would benefit from the development of additional guidance.

“I’ve Been Saved” – At the previous shipyard workgroup meeting, the members recommended that OSHA develop a webpage that would highlight positive incident outcomes from implementing safety precautions, such as utilizing PPE. Through discussion, it was determined that in order for the website to meet the needs of the industry, OSHA would need to receive near miss reports from employees and employers. A majority of the workgroup members felt that employees would not be willing to provide the Agency with their near miss stories and therefore decided to remove this agenda item from their list of top priorities.

Commercial Fishing Industry Guidance – At the previous meeting the workgroup recommended that OSHA develop a guidance product for the commercial fishing industry. After discussion, the workgroup felt that a series of quick cards would be the most useful to the fishing industry. The first four quick cards will cover jurisdictional issues, lockout/tagout practices, rigging, and confined space issues, including the use of refrigerants onboard vessels.

Scaffolding/Falls/Fall Protection – At the previous meeting the workgroup recommended that OSHA develop a guidance document covering fall protection. Discussion included issues with toeboards on scaffolding, ladders, and falls to lower levels and deck openings. The first project to address these hazards will be to develop a side-by-side of the current regulations in 29 CFR part 1915 subpart E with proposed regulatory text changes.

Related Employment in Shipyards– During the workgroup meeting on May 19, 2009, the members began discussion as to whether the proposed construction standard, pertaining to new requirements for the certification of crane operators, applies to the maritime industry. To better understand the issues at hand, OSHA and the Committee determined that it was necessary to ascertain what is meant by the term “related employment.” This term is defined at 29 CFR 1915.4 as “any employment performed as an incident to or in conjunction with ship repairing, shipbuilding, or shipbreaking work, including, but not restricted to, inspection, testing, and employment as a watchman.” The workgroup plans to research the type of work that falls under “related employment” and any differences based on the size of the shipyard. The findings will be presented to the full Committee at the next meeting.

A PowerPoint presentation listing the workgroup’s priorities and updates was entered into the record under Docket OSHA-2009-007 as Exhibit J.

Longshoring Workgroup

Mr. Marc MacDonald

Workgroup Leader

Mr. MacDonald gave a report on the Longshore workgroup's meeting. What follows are the workgroups top priorities, determined at the previous meeting, and their status.

OSHA Quick Cards - The workgroup reviewed and suggested revisions to three longshoring quick cards that OSHA developed. The topics include: first aid in marine terminals, life saving facilities in marine terminals, and gangway safety in marine terminals. After reviewing and discussing the workgroup's suggested revisions, the Committee recommended that OSHA move forward with the publication of the revised cards.

Issues with Container Repair - This is a carryover item from the previous charter. At the March 24, 2009, meeting, the workgroup recommended that they help develop an outline on welding issues that arise during container repair, which will include cutting, burning and grinding. One of the workgroup members visited several container repair facilities to determine some of the hazards involved and shared that information with the workgroup. From the information collected, the workgroup drafted an outline of topics to be included in a container repair guidance document. A draft outline will be presented to the full Committee at the next meeting. Once the first topic is outlined, the workgroup will begin focusing on chassis repair and crane maintenance.

Break Bulk Cargo Safety Guidance - This is a carryover item from the previous MACOSH charter. At the March 24, 2009, meeting the workgroup recommended that the Committee provide the Agency with possible topics within breakbulk cargo handling for guidance to be developed (i.e., rigging, fall hazards, and hold-man safety rules). The workgroup developed a working draft document that they will continue to develop and will present to the full Committee at the next meeting.

Safety Zone Guidance - At the previous meeting, the workgroup recommended that OSHA develop guidance on safety zones for workers on docks, specifically, protection from moving equipment. The workgroup surveyed some marine terminals on the West Coast and their high-line layouts. They measured and compared land widths and safety lanes, which varied among the different facilities. The workgroup plans to develop language for guidance that will be applicable nationwide.

Speed Limits in Terminals - At the previous meeting the workgroup recommended that OSHA develop a standard or guidance for reducing vehicle and equipment speed on marine terminals by requiring speedometers in haulage equipment, governors, speed indicating devices, and Jake brakes. To that end, the workgroup will develop recommendations that address excessive speed in marine terminals.

Defective Containers – At the previous meeting the workgroup recommended that OSHA develop guidance for longshore workers on how to identify containers that may be unsafe for lifting. A draft quick card, based on ISO Circular 134, was developed by the group. The workgroup plans to continue work on this card to refine the wording and then present it to the full Committee.

Ro-Ro Document review – During the previous charter, the Committee reviewed and commented on a roll on-roll off (Ro-Ro) guidance document. Their comments were incorporated, and the document is undergoing an internal Agency review. At the March 24, 2009, meeting, the workgroup requested an opportunity for final review before the document is published. OSHA provided the workgroup with a copy of the draft document and requested that comments be provided to the Agency within a couple of weeks. The Ro-Ro guidance document was entered into the record under Docket OSHA-2009-0007 as Exhibit O.

A PowerPoint presentation listing the workgroup's priorities and updates was entered into the record under Docket OSHA-2009-0007 as Exhibit N.

Closing Remarks/ Tasking

Mr. Jim Thornton

MACOSH Chair

Chairman Thornton advised the Committee with the following:

1. Workgroup Chairs to look back at the priorities presented at the past two meetings and ensure that the projects can be completed by the end of the charter.
2. Shipyard and Longshoring workgroups to add the next consecutive projects, listed in each groups priorities, as higher-priority items are completed and removed from the list.
3. Shipyard and Longshoring workgroups to hold conference calls with OSHA representative present, to discuss progress and next steps.
4. Committee members to reserve the first week in September (August 31 - September 4) on their calendars for the scheduling of the third meeting of this charter.

At 3:15 p.m. - Meeting adjourned.

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

James Thornton, Chairman

Maritime Advisory Committee for Occupational Safety and Health

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