

Executive Summary

**The Maritime Advisory Committee for Occupational Safety and Health (MACOSH)
U.S. Department of Labor
200 Constitution Avenue, N.W., Washington, D.C. 20210**

Wednesday September 26, and Thursday September 27, 2006

Roll Call

Committee members in attendance: James Thornton, Northrop Grumman Newport News Shipyard; Stewart Adams, Naval Sea Systems Command; James D. Burgin, National Maritime Safety Association; John Castanho, International Longshore & Warehouse Union; Warren Fairley, Jr., International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Michael Flynn, International Association of Machinists & Aerospace Workers; Robert E. Gleason, International Longshoremen's Association; Stephen D. Hudock, NIOSH; Charles Lemon, Washington State Department of Labor & Industries; Marc MacDonald, Pacific Maritime Association; Donald V. Raffo, General Dynamics; Captain Lorne W. Thomas, United States Coast Guard; David J. Tubman, Jr., Marine Engineers' Beneficial Association; Ernest Whelan, International Union of Operating Engineers; Jim Maddux, Designated Federal Official; and Susan Sherman, MACOSH Counsel.

Welcome

By Chairman Thornton

Chairman Thornton welcomed everyone to the newly reestablished MACOSH Committee and asked Dorothy Dougherty for her opening remarks.

Opening remarks

By Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance and Brian Little, Acting Deputy Assistant Secretary for OSHA.

Ms. Dougherty thanked the committee for volunteering their time to serve on MACOSH. She stated that the efforts of the last Committee resulted in a number of DSG products that would not have been completed without the Committee's hard work. She also stated that she is sure the new MACOSH will be just as productive, next Ms. Dougherty introduced Mr. Brian Little, Acting Deputing Assistant Secretary for OSHA.

Mr. Little thanked MACOSH on behalf of Secretary of Labor Elaine Chao and Assistant Secretary for OSHA Ed Foulke, Jr. He welcomed the nine new members and six returning members of the Committee. Mr. Little informed the committee that they were charged with work that's important to OSHA, to provide policy advice on occupational safety and health issues for the maritime industry. Mr. Little pointed out that the maritime industry is inherently hazardous, and despite recent improvements in the injury and illness rates for the industry, the rates are still above the national

average. He also said that OSHA, as well as members of the committee, want to see these numbers go down and to see productivity rise. Mr. Little also stated that with the committee's help, experience, and insight, OSHA can be the industry's reliable resource for safety and health. He also stated that it is important that MACOSH remains an active working committee that provides OSHA with advice to effectively administer OSHA programs. The last MACOSH provided OSHA with more than two dozen recommendations. OSHA has already acted on many of them, and OSHA is making progress to implement many others.

When work groups are formed, OSHA would like them to work between meetings with conference calls, email, and by participating in workgroup meetings on the day before the full Committee meets. OSHA will provide staff support to these workgroups. The workgroups are not separate advisory committees, and they do not provide direct advice to the Agency. The workgroups must present their work before the entire Committee and discuss their work in some detail on the record. It's only then that the full Committee can deliberate on the issues and make recommendations to OSHA.

OSHA will use the Committee's advice to make program decisions affecting maritime industries. OSHA will seriously consider the committee's recommendations, and will implement them when possible. OSHA may decide to consult with the Committee on rulemakings in the pre-proposal stage. The Committee will be informed in advance before we provide those opportunities for input.

The role of the Committee

By Chairman Thornton and the MACOSH Committee

Chairman Thornton informed the Committee of what he expected from the committee and established some ground rules. Next, Chairman Thornton asked the members to voice their concerns and expectations, and provide some background information on themselves. The Committee members individually informed the other members of their maritime industry background and what they would like to see MACOSH accomplish.

Advisory Committee Requirements

Presentation by Joe Plick counsel for FOIA and FACA

Mr. Plick showed the Committee a video on the Federal Advisory Committee Act (FACA). The purpose of FACA is to recognize that agencies need to get outside, balanced advice and expertise. The FACA and OSHA's regulations govern the establishment, operation, and termination of committees that are established to give advice to OSHA. The FACA also ensures that Congress and the public are kept informed about the activities of advisory committees by making the process transparent.

Mr. Plick's entire presentation can be viewed in the OSHA docket office.

Cooperative Programs and the Maritime Industry

Presentation by Paula White, Director, Directorate of Cooperative and State Programs

Ms. White informed the Committee that there is a great deal of voluntary protection program activity in the maritime industry, both in shipbuilding and in longshoring. There are six large VPP star sites in shipbuilding and ship repair. The Department of the Navy's is committed to VPP and have three large shipyards in the program, with the most recent site being Puget Sound Naval Shipyard. Northrop Grumman Newport News is a long term private sector VPP site.

Alliances offer OSHA an opportunity to collaborate on areas of mutual interest with industry participants, focusing on training, outreach, education, and developing outreach materials. OSHA has very successful alliances with the American Shipbuilding Association, the National Shipbuilding Research Program, and the Shipbuilders Council of America. OSHA has worked successfully on the development of a number of products with these groups, including our shipyard e-tool, which has been very well received throughout the industry. This month OSHA posted the newest module addressing fire protection.

The Strategic Partnership Program allows OSHA to work with site-based or corporate-based programs, either to address specific hazards or develop effective safety and health management systems. There are three strategic partnership program partnerships in shipbuilding and repair, one in Region VI and two in Region IX. There is also one Strategic Partnership Program in Region II covering marine cargo handling.

Outreach and compliance assistance is one of the priorities of this Administration. This program focuses on developing high quality compliance assistance material that can help employers and employees understand their obligations under the Act and understand how to comply. The compliance assistance page is a starting point for anyone looking for OSHA compliance assistance products. There are 35 e-tools, 11 expert advisors, and 175 safety and health topics pages.

The Cooperative Programs and The Maritime Industry presentation was entered into the recorded as Exhibit #1. The entire presentation can be viewed in OSHA's docket office.

Assistant Secretary's Remarks

By Edwin G Foulke, Assistant Secretary for the Occupational Safety and Health Administration

Mr. Foulke thanked the Committee for volunteering their time to serve on MACOSH, and for helping the agency achieve its mission of reducing injuries, illnesses and fatalities. OSHA is focusing on helping employers have more comprehensive safety and health programs, because it helps the country in the long run if companies have comprehensive safety and health programs. That means injuries, illnesses, and fatalities will be reduced, which in turn means that Workers' Comp rates will decline. Over the last 35 years OSHA has reduced fatalities by 60 percent and injuries and illnesses by 40 percent. When the Agency was started in 1971, there were more than

14,000 fatalities in the workplace. In 2005 there were 5,700. Mr. Foulke concluded by stating, "while much progress has been made, there is still a lot work to be done in the safety and health area."

Cargo Container Security Screening (VACIS)

Presentation by Richard Whitman, DHS, US Customs and Border Protection, Radiation Safety Officer

Mr. Whitman is responsible for radiation protection for U.S. Customs and Border Protection (Customs). One of Custom's duties is to screen cargo entering the country for illegal activities. They inspect cargo for items that are not on the manifest; illegal cargo such as guns, explosives or radioactive material; material that violates copyright laws, such as pirated DVDs; false compartments; or even people illegally entering the country. Customs performs two kinds of inspections, active and non-intrusive. Non-intrusive inspection allows for screening of greater numbers of containers, because Customs officers do not have to physically open up each container. This allows Customs to screen more cargo and improve the Nation's port security.

Mr. Whitman described several types of equipment Customs is using to screen cargo. The primary equipment currently used is the VACIS machine, or Vehicle and Cargo Inspection System. Customs also uses passive detection systems to look for radioactive materials in containers, but these systems do not emit radiation and do not pose a radiation risk for workers.

Mr. Whitman displayed a model of a VACIS mounted on a truck, and described the radiation levels that have been measured around the VACIS system. The radiation levels are very low, in the microrem range. It is important to recognize that one million microrems equal one REM, and that VACIS exposures are well below exposure limits imposed by OSHA, NRC, and international bodies. Mr. Whitman then described the risk of getting sick from exposure to radiation, and stated that there is no evidence that exposures to radiation at these low levels can lead to illness.

One committee member asked Mr. Whitman if the VACIS poses a hazard to workers. Mr. Whitman stated "No, the system is safe for workers". Another committee member questioned Mr. Whitman about the lack of scientific data linking low-dose radiation to illness, expressing a concern that low levels have not been proven to be safe.

Several committee members and the public asked Mr. Whitman a variety of questions. The primary theme of the questions and answers was that longshore employers and employees are confused about the safety and health procedures and risks posed by the variety of screening equipment being implemented by Customs. There is a need for clear guidance about what is safe and what is not. Several committee members stated that longshore workers will continue to be concerned about working around the equipment.

The Cargo Container Security Screening (VACIS) presentation was entered into the docket as Exhibit #2. The entire presentation can be viewed in the OSHA docket.

Standards and Guidance Update

Presentation by Jim Maddux, Director, Office of Maritime

Mr. Maddux briefed the committee on OSHA's regulatory process. Mr. Maddux also informed the committee that the semi-annual regulatory agenda should be published in late October or early November. The semi-annual regulatory agenda lists all of OSHA's planned regulatory activities for the next year. Safety issues on the regulatory agenda are: consensus standards, electrical safety, VTL's, explosives and PPE payment. OSHA has many **consensus standards** incorporated by reference in the OSHA standards. Many of the consensus standards were adopted in the early 1970s under Section 6(a) of the OSH Act. Most have been updated by the committees that administer them, some as many as three and four times. OSHA is using a variety of strategies to update the consensus standards.

OSHA can issue a **direct final rule** on a matter that is expected to be relatively uncontroversial and will not receive significant adverse comment. If there is no significant adverse comment within 30 days or whatever period that is given the public to comment, it automatically becomes a final rule. OSHA is working on several direct final rules to update consensus standards on topics such as PPE and abrasive grinding wheels. In 2004, OSHA published a proposal and received comments for **Electrical standards, Subpart S of Part 1910**. The final rule should be completed soon. The standard applies to marine terminals, shipyard landside operations, and has some application onboard vessels, particularly when temporary power is brought onboard.

Health issues on the reg agenda. The standard for **assigned protection factors** was published last month. The standard regulates how respirators are rated for their protective ability, and helps employer's and employee's choose respirators. **Hexavalent chromium** was published in February 2006. There are separate standards for general industry, construction, and maritime. The previous MACOSH committee recommended that the Agency pursue a separate standard for maritime and collected exposure data on hexavalent chromium. OSHA is currently preparing **Beryllium** for the SBREFA panel process, which should be completed in the near future. In 2005, OSHA issued a request for information (RFI) on **Ionizing radiation**. OSHA is planning to hold stakeholder meetings soon, and continues to collect information. The **Emergency response and preparedness** deals with emergency responders who respond to disasters, such as policemen and firefighters, who are usually employed by state and local governments. OSHA has limited jurisdiction, especially in the standards-setting area, and none that is direct from federal OSHA. OSHA is considering adoption of the Globally Harmonized System of Classification and Labeling of Chemicals for **Hazard communication**. OSHA recently published an advanced notice of proposed rulemaking to get comments. OSHA is accepting comments until November 13.

Guidance documents OSHA and the National Highway Transportation Safety Administration published general guidelines for employers to **reduce motor vehicle crashes**. OSHA is developing a guidance product for **motor vehicle safety at marine terminals**. The draft was reviewed by the last MACOSH Committee. OSHA is also working on a **RO-RO safety** guidance product that will

specialize in the roll on-roll off activities at marine terminals. OSHA is also working on a longshore maintenance and repair document that was recommended by the last MACOSH group.

OSHA has produced several **ergonomics guidelines** covering retail grocery, nursing homes, and the poultry industry. OSHA is working on shipyard ergonomics guideline that is in the review process. OSHA recently produced a guidance document for **marine terminal fall protection for personnel platforms** that was recommended by the last MACOSH group. OSHA has completed three Shipyard guidance projects, **fire protection PowerPoint presentation, marine hanging staging document**, which is specialized scaffolding used in shipyards, and **fire protection FAQs** as a follow-up to the fire protection rulemaking.

The **Abrasive blasting** guidance document is close to being completed. OSHA is developing a marine hanging staging e-tool module based on the paper document. The **ship scrapping** guidance document focuses on people that are doing shipbreaking. There are a small number of shipbreaking facilities in the United States. There are two new documents that OSHA is developing that deal with **training guidance and requirements**. OSHA's concept is to produce one product for the **shipyard industry** and one for the **longshoring and marine terminal industry**. Each document will provide a road map, or compendium, for the OSHA training requirements and provide information on how to train efficiently and appropriately.

Maritime Standards. There are currently three maritime standards on the regulatory agenda. Two of them apply to shipyards. OSHA is planning to **update 12 NFPA standards** that are incorporated by reference in Subpart F Fire Protection. **General working conditions** is a more substantial rulemaking affecting shipyards. OSHA currently has a general working conditions subpart that has a number of requirements for sanitation, working surfaces, working on radars etc. This standard has been on the reg agenda for many years, and OSHA is developing a Notice of Proposed Rulemaking that includes 14 separate topics. OSHA has been working on the **vertical tandem lift (VTL)** standard for several years. OSHA issued a proposal and received comments. OSHA is presently briefing the Assistant Secretary on the issues involved with VTLs.

The Standards & Guidance update presentation was entered into the record as Exhibit #3. The entire presentation can be viewed at OSHA's docket office.

Open discussion (brain storming)

Chairman Thornton asked the committee and OSHA to develop a list of topics they would like to see MACOSH address. Chairman Thornton asked the Committee to consider ranking the topics in three categories (impact, resources, and reality factor). There was a lengthy discussion on how the topics should be ranked and categorized. It was noted that some of the items listed during the brainstorming session were recommendations of the previous MACOSH. Jim Maddux gave updates on the items i.e., (Ro-Ro and Traffic safety in marine terminals) that surfaced during the development of the new list of topics that the previous MACOSH recommended.

Mr. Castanho presented a document (pictures) on cranes and container handling. The pictures showed a container-handling crane being constructed in China. The portal beam was ripped open

and a worker was killed. The fatality may have been caused by hot work that was being performed on the portal beam before the inside was properly vented. The pictures were entered into the docket as Exhibit #4. The pictures can be viewed in OSHA's docket office.

Maritime Enforcement Activities

Presentation by Tom Galassi, Deputy Director, Directorate of Enforcement Programs

Mr. Galassi described the functions of the five offices in the Directorate of Enforcement Programs. Next, Mr. Galassi explained the enforcement process and various inspection systems. There are approximately 150 **Local Emphasis Programs** that address a wide range of issues such as: residential construction, warehousing and logging, ship/boat repair, water transportation services, maritime cranes, all of which can be found on the OSHA-webpage. Over the years, local emphasis programs have resulted in 9,000 to 22,000 programmed inspections.

The site-specific targeting program surveys 80,000 employers per year. Those employers give OSHA information on their injury rate, their DART rate, and their days away from work that serve as a database for the program. With that information OSHA ranks and orders the survey to develop different lists. OSHA inspects those facilities on the primary list (about 4,300 sites). Depending on the data OSHA receives, there could be 50 shipyard inspections and about 10 marine terminal inspections per year. If an employer repeatedly doesn't respond to the survey, OSHA places them on a list for an inspection. Facilities on the secondary list may be selected for inspection.

In 2003, OSHA launched the **Enhanced Emphasis Program**. There are several factors that place an employer into this program i.e., high-gravity, serious violation related to a fatality; three or more high-gravity, serious that are classified as willful or repeat violations; or two or more failure-to-abate violations that are high-gravity, serious. There are about 1,400 establishments in the program. There is a **National targeting emphasis program for shipbreaking** where OSHA looks at Navy and MARAD shipbreaking contractors. In 1991, OSHA signed a memorandum of agreement with the Navy, DLA, MARAD and EPA to develop the program. The inspections are comprehensive, but OSHA gives guidance to look at 20 hazardous activities. The **Shipyard Tool Bag Directive** provides guidance and resources for shipyard employers. It is well linked to the web and has a number of helpful appendices for compliance officers and the regulated community. The **Tool Shed Directive** is a resource for the marine terminal and Longshoring industries. The tool shed is similar to the tool bag but the appendices are different.

In the maritime SICs, there have been 442 inspections. The most frequently cited standards in ship and boat repair are respiratory protection, hazard communication, electrical and guarding of deck openings. In the marine cargo handling industry the frequently cited standards are electrical, respiratory protection, first aid and lifesaving, powered industrial trucks, and cranes and derricks. OSHA is currently revising the field reference manual that has been in existence since 1994.

The Maritime Enforcement Activities presentation was entered into the record as Exhibit #5. The entire presentation can be viewed in the OSHA docket.

Directorate of Science, Technology, and Medicine update

Presentation by Ruth McCully, Director, Directorate of Science, Technology, and Medicine

The Directorate of Science, Technology, and Medicine is a large directorate with four offices and three technical centers. The Technical Data Center is where the dockets are located. The Docket office maintains 600 OSHA dockets. The Cincinnati Technical Center is where OSHA maintains and calibrates its 56,000 pieces of equipment. OSHA's Salt Lake City facility performs sample analysis and develops analytical methods which are known throughout the industrial hygiene community. It's also the home of OSHA's health response team and Internet activities.

The **shipyard video and DVD** has been very well received by the maritime industry. The video reconstructs actual events based on OSHA fatality investigations. Each accident scenario describes and acts out the incident using animation. It identifies the contributing factors and then identifies successful abatement strategies. There has been some talk about making a video for the Longshoring industry. Any type of recommendation OSHA receives will have to be tempered with the resources OSHA has available.

Ships Safety and Health Injury Prevention Sheets (SHIPS). The sheets are intended for use by all levels of expertise within the industry, but they're also intended for use by OSHA staff that may not be familiar with the details and terminology of the industry. The SHIPS concept was introduced in July 2000 and in December of 2000 MACOSH endorsed the idea. The product and its design were also determined by MACOSH. The product was determined to be a matrix with guide sheets that discuss a particular process and the hazards associated with that process. Each guide sheet is a stand-alone entity which can be taken out and used by the worker, by the supervisor, or whoever wants to use it. The other SHIPs OSHA is working on cover shipfitting, shipboard machining, surface preparation, rigging, shipboard materials handling, and shipboard electrical. Ms. McCully asked the committee to review the draft SHIPs when workgroups are formed.

Safety and Health Information Bulletin (SHIB). OSHA is working with the Shipyard Council of America alliance on a SHIB addressing root-cause analysis of shipyard hazards and injuries. This SHIB is in its early stages. OSHA would like to share the SHIB with MACOSH before it is presented to OSHA's executive staff.

In response to Hurricane Katrina, OSHA activated its **National Emergency Management Plan** for the first time. OSHA's executive staff went into the incident command structure organization and management system to manage the response. OSHA received a \$21 million mission assignment to cover federally deployed assets including federal employees and contractors. OSHA, along with the National Institute for Environmental Health Sciences (NIEHS) provided responder training across the Gulf Coast. OSHA developed a theater-wide health and safety plan, which has 29 specific activity sheets.

The Directorate of Science, Technology & Medicine update and presentation was entered into the record as Exhibit #6. The entire presentation can be viewed at OSHA docket office.

Administrative matters and travel

Presentation of by Greg Sentkowski and Vickie Johnson

Mr. Sentkowski informed the committee about the rules for government travel and reimbursement. The Committee was also instructed to contact the maritime staff if they had any questions about their travel.

Open discussion

Chairman Thornton informed the Committee that there was a draft working document of the list of topics the Committee developed earlier. Chairman Thornton explained to the Committee that the list would be edited (if necessary) during the discussion. Jim Maddux explained and defined the list of topics contained in the draft working document. The list presented into the record as Exhibit #7

Mr. Maddux informed the Committee that the agency will be organizing workgroups and making workgroup assignments. Once the workgroups are formed, OSHA will provide them with draft products for review or receive information for various issues. Chairman Thornton informed the Committee if they have a certain workgroup or area they would like to work on, they should inform the maritime staff.

Mr. Maddux asked the committee if they would limit their workgroup participation to two workgroups because of scheduling conflicts during workgroup meetings.

Mr. Castanho asked if the public would be allowed to participate in the workgroup meetings. Both Mr. Maddux and Ms. Sherman informed Mr. Castanho that the workgroup meetings are open to the public and the Agency encourages public participation.

Mr. Fairley asked Mr. Maddux to send out a copy of the seven categories that he has in mind for the workgroups. Mr. Maddux agreed to send the information to the Committee.

Chairman Thornton asked the Committee to give their perspective on how the meeting went, and especially ways the Committee can improve the process. The committee unanimously commented that with all the new members on the committee they were impressed with how engaged everyone was and they look forward to working together in the future. The meeting was adjourned.