

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

March 24, 2009

The Maritime Advisory Committee for Occupational Safety and Health was convened for its first meeting under the current charter at 8:30A.M. on March 24, 2009, at the U.S. Department of Labor, Francis Perkins Building, Washington, D.C. The meeting was adjourned at 3:28 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 were open to the public.

Committee members present were:

James Thornton, Chairman
Stewart Adams
Alan Davis
Michael Flynn
Alton H. Glass, Sr.
Lesley E. Johnson
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
Pat Strickland
Brenda Taylor
Amy Wangdahl
Danielle Watson
Vanessa Welch

Staff of the Occupational Safety and Health Administration attending, in addition to Donald Shalhoub and Dorothy Dougherty, were:

Jennifer Ashley
Stephen Butler
Nalini Close
Paul Comolli
Jeff Doranz
Eric Kampert
Jim Maddux
Katie Nishimura
Diana Petterson
Joseph Plick
Jack Reich
Paul Rossi
Rob Sadler
Robert Szymanski
Ira Wainless
David Wallis
Randy White

The committee members provided the group with an introduction, discussing their background, experience, and what they hope to accomplish during this charter.

Remarks

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

Ms. Dougherty welcomed the Committee members and the public to the first meeting of the re-chartered Maritime Advisory Committee for Occupational Safety and Health (MACOSH). She described the role of the Directorate of Standards and Guidance, specifically the Office of Maritime, in relation to working with MACOSH. The Maritime Office prepares for meetings, tracks the progress and recommendations from the Committee, and acts on the recommendations that the Agency deems feasible based on staff availability, regulatory priorities, and the budget.

Ms. Dougherty thanked the members for volunteering their time and expertise to serve on the Committee. Additionally, she spoke of how good it was to see the returning members and that she looks forward to meeting with the new members and working closely with them in the future to continue the MACOSH legacy. She also explained that the OSHA Staff are available to assist the Committee in any way possible to make their experience serving on the Committee a pleasurable one.

Remarks

Mr. Donald G. Shalhoub, Deputy Assistant Secretary
Occupational Safety and Health Administration

Mr. Shalhoub complimented Mr. Thornton on his capable leadership in the past and thanked him for continuing to chair the Committee. He thanked the members for their willingness to serve on the Committee and discussed how pleased he was to have so many experienced individuals and strong advocates for workplace safety and health.

Mr. Shalhoub described how all federal departments and agencies are undergoing changes as they transition to new leadership, specifically mentioning the appointments of Hilda Solis as the Secretary of Labor, sworn in by Vice President Joe Biden; Jeff Navin as the Secretary's Deputy Chief of Staff; Deborah Greenfield as Director of the Department's Office of the Executive Secretariat; and Brian Kennedy as Assistant Secretary for Congressional Affairs. He also discussed changes within OSHA that included Tom Galassi transferring from a Deputy position in Enforcement Programs to the Director of the Directorate of Technical Support and Emergency Management; Richard Fairfax serving as the Acting Director of Construction Programs while maintaining his responsibilities as the Director of the Directorate of Enforcement Programs; Steve Witt transferring from the Director of the Directorate of Construction to the Director of the Directorate of Cooperative and State Programs; Jennifer Ashley as the new Director of the Directorate of Communications; Bob Kulick as the new Regional Administrator for Region II; John Hermanson as the new Regional Administrator for Region III; and Ken Atha as the new Regional Administrator for Region IX. Mr. Shalhoub reiterated that despite the recent changes, OSHA will continue to focus on its priorities of setting and enforcing standards, listening to stakeholders, and emphasizing prevention of safety and health injuries and fatalities. Mr. Shalhoub also highlighted a few OSHA projects, some of which were MACOSH recommendations.

- The proposed rule for General Working Conditions in Shipyard Employment (29 CFR Part 1915, subpart F) was published in December, 2007. Two public hearings were held; one in Washington, DC and the other in Seattle, WA in the fall of 2008. The post-hearing comment period closed on February 20, 2009. At this time, OSHA is analyzing the comments.
- The final rule on vertical tandem lifts (VTLs) was published on December 10, 2008 with an effective date of April 9, 2009. OSHA is currently involved in litigation with the National Maritime Safety Association over the final rule. However, the effective date will remain in effect until further notice.
- The Compliance Safety and Health Officers (CSHOs) Training Course (2090 course) was redeveloped by the OSHA Training Institute, along with the Directorate of Standards and Guidance. The course was first developed several years ago to train CSHOs to recognize jurisdictional issues and to properly apply OSHA standards. The revised course curriculum uses more videos, and industry experience. The revised course materials, which include videos, PowerPoint presentations, and workbooks, are in the final stages of development and should be ready soon for a trial run with a test group.

- The Shipyard Industry Digest has been updated and is in the final stages of publication. This guidance 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. The Shipyard Digest will be followed later this year by an updated edition to the Longshoring Industry digest.
- OSHA developed a guidance document designed to help prevent injuries at marine terminals involved in Roll On - Roll Off (RO-RO) operations. At this time, OSHA is incorporating several revisions that were suggested by MACOSH under the previous charter.
- A Deck Barge Safety Guidance Document and Spud Barge Safety Fact Sheet were published on the OSHA's webpage in January, 2009. Both documents were designed to show employers and employees the need for proper controls, procedures, and training necessary to prevent serious injuries while working on deck barges. These guidance projects were reviewed by the Committee and recommended for publishing at the last MACOSH meeting in May, 2008.
- OSHA drafted a Ship Scrapping Document to help employers and employees maintain a safe work environment while engaged in scrapping of ships. This draft document was reviewed by MACOSH in May, 2008. The Committee's suggestions have been incorporated and the agency is currently reviewing the document.
- The Office of Maritime is developing a series of quick cards for the longshoring industry, on the recommendation of the Agency's Savannah area office. The first series of topics will cover first aid kits, lifesaving equipment, and gangway safety.

Ethics Briefing

Mr. Robert Sadler, Counsel for Ethics
Office of the Solicitor

Mr. Sadler expressed his pleasure to be able to address the MACOSH Committee and explained that, as one of his functions as Ethics Counsel, he usually provides similar presentations to each of the Advisory Committees that provide assistance to the Department of Labor.

He briefly described the two types of advisory committees that serve the government: those composed of Special Government Employees (SGEs) and those composed of Non-SGEs. SGEs are selected to represent the government and are subject to a full array of ethics rules. Non-SGEs, which MACOSH members fall under, are chosen to represent a specific viewpoint or an entity's viewpoint.

The topics Mr. Sadler covered included the misuse of government resources, the misuse of government information, and the misuse of government affiliation. He defined government

resources as anything that may be made available to the Committee, to help carry out its mission, and should not be used for personal activities. This could include equipment, documents, information, and committee affiliation or title. A handout entitled Summary of the Ethics Rules for Non-Federal Individuals was provided to the Committee members for reference during Mr. Sadler's presentation. The handout was part of a MACOSH Handbook, which was entered into the record under Docket OSHA-2009-0007 as Exhibit B.

Federal Advisory Committee Act (FACA) Briefing

Mr. Joseph Plick, Counsel for Freedom of Information Act (FOIA) & FACA
Office of the Solicitor

Mr. Plick discussed some background information on the FACA. FACA governs the establishment, operation, and termination of advisory committees. It ensures that such committees provide prompt, relevant advice and maintain accountability through cost, controls, and recordkeeping requirements. "It also ensures that Congress and the public are kept informed about the activities of advisory committees by making the process transparent." Each advisory committee is required to follow the same protocol: the Committee is chartered and the charter is then approved by the General Services Administration, which has government oversight over how committees are run and determines if the Committees are properly balanced.

In addition, Mr. Plick discussed the requirement that meetings must be open to the public and that detailed minutes must be kept. A handout entitled Federal Advisory Committee Act was provided to the Committee members for reference during Mr. Plick's presentation. The handout was part of a MACOSH Handbook, which was entered into the record under Docket OSHA-2009-0007 as Exhibit B.

Budget Briefing

Ms. Kim Locey, Director
Directorate of Administrative Programs

Ms. Locey gave a summary of how the budget process works at the Department of Labor. She explained that different parts of the budget are controlled by many entities, which consist of Congress, OMB, and the Department of Labor. Ms. Locey's PowerPoint presentation was entered into the record under Docket OSHA-2009-0007 as Exhibit A.

Shipyard Workgroup

Mr. Donald V. Raffo

Workgroup Leader

Mr. Raffo gave a report on the Shipyard workgroup's meeting. What follows are workplace safety and health issues that the workgroup recommends be addressed by the workgroup and presented to the Committee for OSHA's consideration.

Top Priorities

1. **Surface Preparation and Preservation, Subpart C** - This is a carryover item from the previous charter where the Committee made a recommendation to OSHA to update and review the regulations in subpart C. OSHA has requested that the workgroup provide a side-by-side comparison of the current regulations with proposed regulatory text changes.
2. **Safety and Health Injury Prevention Sheets (SHIPS) Documents** - OSHA has sought advice from MACOSH on SHIPS guidance documents in the past. The next SHIPS will cover rigging and will be provided to MACOSH for their review shortly. The workgroup recommended that the next SHIPS topic that is drafted should be shipboard electrical. In addition, the workgroup recommended that ventilation and ergonomics be added to the list of possible SHIPS.
3. **Arc Flash Guidance** - The workgroup recommended that OSHA develop a guidance document on arc flash hazards from high voltage equipment in shipyards. As the Navy moves towards high voltage in ships, it introduces an increased level of danger for the employees working on these vessels. The workgroup plans to provide OSHA with recommendations for reducing injuries and fatalities in this area.
4. **"I've Been Saved"** - The workgroup recommended that OSHA develop a webpage that would highlight positive incident outcomes from implementing safety precautions utilizing PPE.
5. **Commercial Fishing Industry Guidance** - The workgroup recommended that OSHA develop a guidance product for the commercial fishing industry. Some ideas included a top 20 list of hazards that fishermen should be aware of (i.e., head protection, PFDs, etc.).

Additional Priorities

6. **Scaffolding/Falls/Fall Protection** - 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.
7. **Data Request** - The workgroup requested that OSHA provide data to include:
 - o What is "Maritime Industry" - who is included in that term?
 - o What are the injuries that are occurring to those employees?

- Any data on uninspected vessels (barges) that would help identify hazards and possible guidance documents to address those hazards
 - BLS Statistics – A request was made to invite a speaker from BLS to discuss the definitions that are used and how the data provided from the industry is utilized.
 - Information on respirator data. Have there been changes in the protection factors?
8. **Guidance Documents** – Recommendation for OSHA to develop guidance on the following topics:
- Toxic Metals (i.e., cadmium, lead, chromium in the paint)
 - RF Radiation (non-ionizing) and Acoustic
 - Struck By - Control and review of data
 - Nuisance dust and its effect on employee exposure
9. **How Can MACOSH Assist with the Training of CSHOs** – Although OSHA is in the process of offering a new course, the workgroup expressed that they would like to offer their expertise and input in the development of the CSHO training course.
10. **Regulatory Action Suggestion** – Several workgroup members expressed a concern with the scope of three standards to include:
- Ergonomics in Shipyard Employment
 - Heat Stress
 - 1915 - Scope of Shipbreaking
11. **Subpart D (Welding, Cutting and Heating)** – A carryover item from the previous charter. OSHA requested that the workgroup provide a side-by-side comparison of the current regulations with proposed regulatory text changes.

The Committee voted for the Shipyard Workgroup to concentrate on the top five items and maintain the others on the list as potential topics for discussion in the future. A PowerPoint presentation listing the “Top Priorities” and “Additional Priorities” was entered into the record as Exhibit F.

Longshoring Workgroup
Mr. Marc MacDonald

Mr. MacDonald gave a report on the Longshoring workgroup’s meeting. What follows are workplace safety and health issues that the workgroup recommends be addressed by the workgroup and presented to the Committee for OSHA’s consideration.

Top Five Priorities

1. **OSHA Quick Cards** – The workgroup recommended that OSHA continue with the development of a series of Longshoring quick cards and present it to the Longshoring workgroup for review and comments. Initial topics include: first aid kits, gangway safety, and life saving equipment, with additional topics to be suggested at future meetings. The workgroup expressed that a bilingual plastic card and/or flip booklet format would better assist the industry. An example of the plastic card was entered into the record as Exhibit C and sample flip booklet, entitled “Tool Box,” as Exhibit D.
2. **Issues with Container Repair** – This topic was a carryover item from the previous charter. The workgroup recommended that the Committee help develop an outline on welding issues on container repair to include cutting, burning and grinding. Once the first topic is outlined, the workgroup would begin focusing on repair of chassis and possibly expand the area of focus to include crane issues as well.
3. **MASTIR** – Maritime Accumulated Standards Tracker for Improvement Recommendation focusing on 29 CFR 1910, 1915, 1917, 1918, 1919, 1926. OSHA has been keeping track of recommended changes in these sections and has developed proposed regulatory language. The workgroup expressed an interest in reviewing and commenting on the language.
4. **Break Bulk Cargo Safety Guidance** – A carryover item from the previous MACOSH charter. 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).
5. **Safety Zone Guidance** – The workgroup recommended that OSHA develop guidance on safety zones for workers on docks, specifically protection from moving equipment.
6. **Speed Limits in Terminals** – 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 a white paper, indicating all the issues with excessive speed in marine terminals.

Additional Priorities

7. **Fatality Risk Reduction** – The workgroup recommended addressing possible controls to address at-risk behavior (i.e., culture and complacency).
8. **Person In the Water** – The workgroup proposed that OSHA develop guidance for retrieval of persons falling in the water, specifically addressing how to retrieve employees from the water without further injuring them (i.e., lashers working near water’s edge).

9. **Semi-automatic Twistlock Issues** – The workgroup suggested that OSHA look further into inspection and maintenance guidelines with semi-automatic twistlocks. Additionally, the workgroup discussed the Agency research procedures for dealing with “stuck cones,” which have caused crushing injuries.
10. **Rail Safety Guidance** – OSHA was requested to work on guidance that would address dock rail issues when performing container and break bulk loading, working with moving bulk rail cars; and issues with bulk trucks while dumping loads.
11. **Diesel exhaust** – This item is a carryover item from the last charter and addresses crane cab filtration issues, LSI Exhaust from the operation of forklifts, and large spark ignition engines.
12. **Ro-Ro Document review** – Comments on this document were provided to MACOSH during the previous charter. The workgroup requested an opportunity for final review before the document is published.
13. **Defective Containers** – The workgroup recommended that OSHA develop guidance for longshore workers on how to ID containers that may be unsafe for lifting.
14. **Back and Lifting Safety** – The workgroup suggested that OSHA develop guidance that will address the proper preparation for work, proper lifting techniques, and stretching techniques to minimize soft tissue injuries.
15. **Gantry Crane Operational Issues** – The workgroup recommended that OSHA develop guidance that discusses gantry crane operational issues, crane brakes, procedures for crane tie down, and parking cranes where ships are docked.
16. **Radiation safety** – Guidance was worked on under the previous MACOSH charter; however, a new generation of higher energy X-Ray machines has been developed that may require a guidance update.
17. **Drug and Alcohol** – This item was carried over from the previous charter and covers post-accident testing and non-addictive medicines.

The Committee voted for the Longshoring Workgroup to begin work on the items discussed, in the order that they were presented, concentrating on the initial top five. A PowerPoint presentation, listing the “Top Priorities” and “Additional Priorities” was entered into the record as Exhibit E.

Closing Remarks/ Tasking

Mr. Jim Thornton
MACOSH Chair

Chairman Thornton advised the Committee with the following:

1. Subgroup Chairs to look back at what was presented at the Committee meeting and further expound upon the thought process behind each recommendation.
2. Shipyard and Longshoring workgroups to review the details behind each recommendation and discuss the plan of attack.
3. Shipyard and Longshoring workgroups to hold conference calls with OSHA representative present, to discuss progress and next steps.
4. Committee members to send dates of unavailability to the MACOSH Liaison, Danielle Watson, no later than March 31, 2009, in order to narrow down dates for scheduling a second MACOSH meeting.

At 3:28 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.