



National Maritime Safety Association

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July 2011

Marc MacDonald Honored with NMSA “Man of the Year” Safety Award



NMSA President Joe Curto (l) and Marc MacDonald (r)

NMSA named Marc MacDonald, Vice President Accident Prevention, Pacific Maritime Association (PMA) as the association’s Man of the Year at the recent Annual Meeting in Vancouver, British Columbia. NMSA President Joe Curto presented Mr. MacDonald the award for his long and dedicated service to NMSA’s Board and Technical Committee, and his representation of NMSA on the Maritime Advisory Committee on Occupational Safety & Health (MACOSH). Prior to his 13-year tenure at PMA, CAPT MacDonald had a 30-year career with the U.S. Coast Guard, primarily spent in California. Subsequently, on June 30, 2011, Mr. MacDonald retired from PMA—everyone in the NMSA family congratulates him on his well-deserved award and wishes him all the best in his retirement!

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Decision handed down in *NMSA v. OSHA*: VTL Ruling

After a nine month gestational period, the U.S. Court of Appeals for the D. C. Circuit released its [decision](#) on NMSA’s challenge to OSHA’s VTL rule on June 17, 2011. The ruling by the three judge panel vacated and remanded to OSHA both the ship-to-shore inspection requirement for VTLs and the regulation of flat rack VTLs.

The Court noted that “OSHA standards must be both economically and technologically feasible,” and concluded that “the record lacks substantial evidence to support the feasibility.” The Court also stated that, “[t]he VTL Standard is almost devoid of feasibility analysis.” While the **ship-to-shore VTL**

inspection requirement was vacated and remanded to OSHA, the shore-to-ship VTL inspection requirement was upheld.

Regarding **flat racks**, the Court ruled that there is no evidence of feasibility regarding the regulation of flat rack VTLs. It also noted that the regulation on VTLs for flat racks was “a significant departure from OSHA’s proposed rule” and that agencies should not “use the rule-making process to pull a surprise switcheroo on regulated entities.” Again, the Court **vacated and remanded** to OSHA this portion of the rule.

The end result? The ship-to-

shore inspection and flat rack requirements are no longer valid.

These provisions of the VTL rule were the driving factors in bringing the complaint to the Court of Appeals. The decision, in fact, goes further than OSHA was willing to go during negotiations with NMSA prior to the lawsuit being filed. The ball is now in OSHA’s court, and should the agency choose to regulate either or both of these issues, it will have to start a new rulemaking process.

The NMSA Board and Technical Committee are currently reviewing the Court’s decision.



BCMEA President Andy Smith



Program Chair John Beckett

Kudos and Thank You All-Around

NMSA's 2011 Annual Meeting, held in Vancouver, British Columbia was a tremendous success, with a record number of attendees from both Canada and the U.S. Congratulations and many thanks to Program Chair John Beckett (BCMEA VP of Training, Safety and Recruitment) and his staff for their tremendous efforts in presenting a topical program on safety in the maritime environment. The panelists and speakers provided both thought-provoking and informative presentations that were enjoyed by all in attendance.

Wednesday's full day of Technical Committee and Board meetings ended along the beautiful Vancouver waterfront aboard the *Britannia*. The 2011 Annual Meeting officially began Thursday morning with welcome remarks from BCMEA President Andy Smith followed by a full day of speaker presentations. Thursday evening's dinner at the Terminal City Club was highlighted by the *Man of the Year Award* presentation to Marc MacDonald (see p. 1). The meeting continued through Friday morning and culminated in a surprise and funny "wrap-up" by a troupe from the Vancouver Improv.

Presentation summaries are below; PDFs can be found at www.nmsa2011.com/downloads.html.

Thank you again to our exhibitors and generous sponsors, all of whom are listed on p. 4.

NMSA Meeting Presenters

The meeting's keynote address was delivered by **Mr. Jim Spigener**, Vice President, Behavioral Science Technology Inc. Mr. Spigener discussed the issue of safety leadership, and how corporate culture affects safety behavior and priorities. What's important? An organizational value for safety, upward communication, management credibility and support, teamwork, and, most of all, a commitment to safety that makes safety a core value.

Following the keynote speaker was a panel discussion on "Innovation in Fall Protection" that was chaired by **Wayne Donnelly** of New Heights Industries and included on the panel **Mr. Terry Bertram** of BCMEA, the NMSA Annual Meeting hosts, and **Mr. Dave Turner** of APM Terminals. Mr. Donnelly's presentation notes the needs to: identify and assess fall hazards in order to choose appropriate fall protection equipment and systems; consider passive and active restraint systems; develop written procedures and fall protection training refreshers. Important considerations are that: employers and employees are exposed daily to fall hazards, there is not one "solution for every hazard" and "each hazard requires a specific solution," and, finally, a viable rescue plan is necessary. Fall protection options include: "elimination of the hazard," passive and active restraints, "fall arrest systems" that include a rescue plan, and safety nets. If a fall occurs, Mr. Donnelly comments that the "four key elements of fall protection are: anchorage, connecting means, body holding device, and rescue."

Mr. Robert G. Allan, Robert Allan Ltd., was the second session presenter whose topic was "The Role of Escort Tugs in Tanker Safety Today." Mr. Allan reviewed the history of oil spills, noting the fact that "accidents involving oil tankers and offshore installations account for some 10 percent of the annual total amount of oils entering the marine environment." On the other hand, "tanker accidents and accidents with offshore installations do, however, account for most of the world's largest oil spills." When looking at the possibility of oil spills, the focus must be on risk reduction by using the "most advanced shipping technologies...highly trained professional mariners...training in tanker response strategies...use of the latest escort towing technologies." According to Mr. Allan, escort tugs have seen "significant improvements in hull design/escort capability, proven configurations with both VSP and Z-Drive propulsion, [the] ability to accurately predict performance, and [the] ability to define effectiveness in rough weather."

The third session was focused on alertness testing and was led by **Mr. Henry Bowles**, President of Bowles-Langley Technology, Inc. Mr. Bowles stated that alertness is affected by: "fatigue, prescription drug effects, injury, illegal drug effects, alcohol, illness and stress," and/or a combination of all of these factors. In order to judge alertness, there are now physical tests, e.g. eye and face scans, graphic tests that create individual baseline alertness performance, and shift work alertness technology, including smartphone apps. Alertness testing is one of many tools in a "Safety Manager's toolbox."



Jim Spigener



Wayne Donnelly, Dave Turner, Terry Bertram



Robert Allan

NMSA Meeting Presenters (continued)

Session Four on Thursday afternoon, led by **Mr. Thomas Ward** of Ports America, discussed automated terminal design and safety. Primary safety concerns as terminals become more automated include: “keeping humans away from moving equipment...any system fault leads to a safe condition: ‘fail safe’,” strict adherence to applicable safety regulations, and using the most robust automation practices, whether US or European. Mr. Ward noted that “[t]he interface between machines, infrastructure, and humans is fundamentally different from manual terminals” and that “humans must be physically separated at all times from equipment moving under robotic control.” Robots, of course, “do what they are told and no more,” which is why “manned operations and automated operations do NOT mix.” When converting terminals from manned to automated, it is necessary to segregate these two areas.

The final session on Thursday, June 23, was chaired by **Mr. Ron Signorino**, The Blueocean Company, Inc., with presenter **Capt. Jim McNamara**, and reviewed how to accurately assess container weights and, thereby, ensure safety in loading, transporting and unloading containers. Findings after container incidents have indicated sometimes enormous differences between cargo manifest weights and actual container weights, particularly when viewed in the aggregate. Other incidents result from maximum allowable stack weights being

exceeded, leading to the collapse of the cargo containers. Safely transporting containers means that containers should be inspected each time they are put into service to ensure that they are structurally sound, that containers are suitable for the load being carried, and that they are appropriately packed. Finally, load sensing technology has been developed to assist in identifying container overloads, “understatement of container weight, and out-of-balance” loads.

Friday morning’s sessions included a presentation by **Dr. Ray Baker** regarding the “Modern Approach to Addictions.” Dr. Baker also reviewed the management of employee disabilities that result from addictions and other “psychomedical conditions.” Noting that about ten percent of employees have mental disorders, Dr. Baker said that the most common are: anxiety, mood, and thought disorders, pain, sleep and substance use disorders, and compulsive behavior disorders. He noted that “stress” is not a diagnosis, and “leave is usually not an effective tool.” Instead, stress hides other problems and “requires further explanation.” Addictions mimic other medical conditions. Drug or alcohol abuse is “not considered a disability.” Warning flags at work include: changes in attendance, appearance, performance, and behavior, increasing conflict at work, accidents, and obvious impairment. In sum, mental health problems in the workplace are a growing problem, addictions

mimic other mental health problems, a comprehensive disability management process should be established, and medical monitoring is the “key to improved outcomes.”

The final session, “Driving to Zero,” was led by **Mr. Jason Pratt**, Operations Superintendent, DP World Vancouver. A comprehensive process for managing safety risks is a necessity, with goal setting, planning and performance measurement. A culture of safety is also necessary. Controls are needed to eliminate hazards or “reduce the level of risk associated with exposure to the hazard.” Mr. Pratt noted that accidents are caused by: “organizational and system factors, unsafe conditions, and at risk behavior.” Specific risky activities to be targeted include: “pedestrian safety, working at heights, handling loads, mobile equipment, vessel safety, engineering safety, and isolation” and safe operating standards need to be established for these and other risky activities. Near misses should be reported, and an incident review committee established to review safety incidents. In addition, monthly management safety meetings should be held, vessel safety requirements reviewed and implemented, and, importantly, communication should be a large part of the safety toolbox—implement a monthly safety focus, and include poster campaigns, safety bulletins, incident reviews, etc. as part of this communication.



Henry Bowles



Tom Ward



Jim McNamara and Ron Signorino



Dr. Ray Baker



Jason Pratt

NMSA Officers (see photo p. 5)

As of June 24, 2011, the officers of the Board of Directors (with NMSA member designations) are as follows:

President: Joe Curto (New York Shipping Association)
 1st Vice President: Nick Jumonville (Midgulf Assn. of Stevedores)
 2nd Vice President: Sean Lindsay (Pacific Maritime Association)
 3rd Vice President: Dave Adam (New York Shipping Association)
 Secretary: Gerald Swanson (Pacific Maritime Association)
 Treasurer: George Brown (Hampton Roads Shipping Association)

2011 NMSA Annual Meeting Exhibitors

ALAIS VENTURES LTD



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2011 NMSA Annual Meeting Sponsors

Primary:



Platinum:



Gold:



MOBILE STEAMSHIP ASSOCIATION, INC.



Bronze: Southeast Florida Employers Port Association, Pacific Coast Terminals Co. Ltd., Western Stevedoring, Maersk Inc., Ports of the Delaware River Marine Trade Association, Midgulf Association of Stevedores

Agency Action



Updated” Injury & Illness Recording and Reporting Requirements—In the *Federal Register* on June 22, 2011, OSHA published a proposed rule that would change reporting requirements for work-related fatalities and hospitalizations, as well as work-related amputations. Currently, employers are required, within eight hours, to inform OSHA about work-related fatalities and in-patient hospitalizations of three or more employees. This proposed rule would require that any work-related fatality or in-patient hospitalization be reported to OSHA within eight hours, and any work-related amputations be reported within twenty-four hours. In addition, the proposed rule replaces the Standard Industrial Classification (SIC) system with the North American Industry Classification System (NAICS) for use in providing the Appendix A list of industries with partial exemptions from requirements to maintain injury and illness logs due to their low rates of occupational injuries and illnesses. Comments are due by September 20, 2011.

OSHA Directive Regarding Corporate-Wide Settlement Agreements—A revised OSHA instruction regarding guidelines for the ad-

ministration of corporate-wide settlement agreements became effective on June 22, 2011. The new instruction “extends the use” of national and regional corporate-wide settlement agreements “to a broader range of enforcement cases, particularly where an employer has or may have a significant pattern of non-compliance with the OSH Act across multiple site locations.” Each agreement must have a termination date “not to extend beyond two years from the final order date.” In state plan states, if federal OSHA has an agreement with an employer covered under a state plan, the state may: honor the terms of the federal agreement; enter into a separate agreement that may accept “the terms and conditions of the federal settlement” or establish “different but equivalent or more stringent terms and conditions;” or, enforce state standards and regulations without regard to the federal agreement” (i.e., not honor the agreement). In any instance, the state must let the regional OSHA administrator know which option it will follow.

DOL Regulatory Agenda Web Chats—Seven DOL agencies will be holding live web chats on the most recent DOL regulatory [agenda](#) published in the *Federal Register* of July 7, 2011. The OSHA web chat is scheduled for Monday, July 11, 2011 from 2:30-3:30 EDT. To participate in any of the web chats, visit <http://www.dol.gov/regulations>.

OSHA Goes Live with Recordkeeping—OSHA recently went live with an interactive website intended to assist employers in determining “whether injuries and illnesses are work-related and recordable under the OSHA Recordkeeping rules.” Compliance—and no excuses—is a big part of the effort.

Maritime Advisory Committee for Occupational Safety and Health (MACOSH) Meeting Scheduled—OSHA has scheduled a MACOSH [meeting](#) for July 19 (workgroup meetings) and July 20 (committee meeting) in San Diego, CA. Included on the tentative agenda: single and multi-piece rim wheels, working safely around radiation, person in water, fire watch responsibilities, eye injury reduction, and injury and illness prevention plans. In addition, the workgroups will also “discuss topics on which they may focus for the duration of the current Committee charter.”

Susan Harwood Training Grants—Susan Harwood Training Grant applications are now available. The program is funded at \$4.7 million with grants in the following categories: targeted topic training, training and educational materials development, capacity building developmental, and capacity building pilot. Applications must be completed by July 20, 2011.

NMSA Board of Directors and Staff



Standing: Dave Adam, Sean Lindsay, George Brown, Doug Beeber, Marc MacDonald, Jerry Swanson, Norman Lamb, Billy Adams, Stéphane Saucier
Seated: Joe Curto, Walt Egee, Mark Baker, Elaine Tandler (Staff), Nick Jumonville, Kelly Garber, John Beckett, Chuck Carroll (Executive Director)
Not Pictured: Phil Feldhus, Win Froelich (General Counsel), Meg Kane (Senior Editor), Mark Montgomery, Tony Petrizzo, Tom Sullivan

2012 NMSA Annual Meeting – June 27-29, 2012



Additional information to follow.

NMSA Technical Committee



Standing: Terry Bertram, Steve Crouch, Mark Blackman, Marc MacDonald, Vince Lamaestra, Dave Turner, Jimmy Burgin, Joseph Farley
Seated: Susan Winfree, Chuck Maravolo, Steve Allen, Ed Hughlett, Dan Harrison, Ken Killough (Chairman)
Not Pictured: Stéphane Saucier, Tim Sheppard, Ron Signorino, Brad Stoker, Larry Toepper, Bill Williams