

# NATIONAL MARITIME SAFETY ASSOCIATION, INC.

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## NMSA News Bulletin . . . 12/29/2010

### 2011 NMSA ANNUAL MEETING

Mark your calendars

June 22 – 24, 2011

Vancouver, British Columbia

Rooms – [Delta Vancouver Suites](#)

Meeting – [Morris J. Wosk Centre for Dialogue](#)

Program Chairman – John Beckett, British Columbia Maritime Employers Association

*Additional information and registration details will be forwarded in January 2011.*

### AGENCY ACTION

Department of Labor  
Occupational Safety & Health Administration

- **OSHA Semi-Annual Regulatory Agenda**—OSHA’s regulatory plan includes information on its proposed Injury and Illness Prevention Program (I2P2). OSHA states that it “believes that an injury and illness prevention program is a universal intervention that can be used in a wide spectrum of workplaces to dramatically reduce the number and severity of workplace injuries.” (See [Federal Register](#) of December 20, 2010 (Part II), then scroll down to p. 79602.) The timetable for this regulation notes that stakeholder meetings were held in June, 2010, and that OSHA intends to begin a review pursuant to the Small Business Regulatory Enforcement Fairness Act (SBREFA) in June, 2011. The document also comments that “[T]he

**MEMBERS** Pacific Maritime Association · New York Shipping Association · Boston Shipping Association · United States Maritime Alliance  
Hampton Roads Shipping Association · Mobile Steamship Association · South Carolina Stevedores Association · West Gulf Maritime Association  
Georgia Stevedore Association · Southeast Florida Employers Port Association · Midgulf Association of Stevedores · Steamship Trade Association of Baltimore  
Ports of the Delaware River Marine Trade Association · British Columbia Maritime Employers Association · Maritime Employers Association (Montreal)



scope of the proposed rulemaking and the costs and benefits are still under development for this regulatory action.”

A second regulation of interest from OSHA is entitled “Occupational Injury and Illness Recording and Reporting Requirements—Modernizing OSHA’s Reporting System.” OSHA states that “the collection of establishment specific injury and illness data in electronic format on a timely basis is needed to help OSHA, employers, employees, researchers, and the public more effectively prevent workplace injuries and illnesses...” (See *Federal Register* of December 20, 2010 (Part II), then scroll down to p. 79604.) The estimate for publication of the NPRM for this rulemaking is September, 2011.

- **DOL Agency Regulatory Web Chats Scheduled**--Subsequent to the release of its semi-annual regulatory agenda, DOL has scheduled web chats for several agencies proposing rules. The OSHA web chat is scheduled for Wednesday, January 5, 2011 from 2:30 until 3:30 PM EST. To participate in the web chat go to: <http://www.dol.gov/regulations> and please review the web chat link above regarding the schedule.

- **Proposed OSHA Noise Exposure Guidelines**—As we reported last month, OSHA is extending the comment period for its proposed interpretation of noise exposure guidelines until March 21, 2011. OSHA announced the revised comment deadline in the December 14, 2010 *Federal Register*. OSHA also announced that it will hold a stakeholder meeting “before the end of the comment period to listen to the concerns of businesses and workers about the proposed noise interpretation.”

NMSA Counsel is evaluating options after receiving comments from the NMSA Technical Committee and, subject to NMSA Board approval, NMSA may submit comments for the maritime industry and/or join with the comments of the U.S. Chamber of Commerce, which is coordinating the comments of a broad spectrum of industry.

#### Department of Transportation Federal Motor Carrier Safety Administration (FMCSA)

- **Notice of Proposed Rulemaking Restricting the Use of Cell Phones in Interstate Commerce**—In the *Federal Register* of December 21, 2010, the FMCSA has published a rule that would restrict the use of hand-held mobile phones by drivers of Commercial Motor Vehicles (CMV) in interstate commerce. The significant issue here is that there will be driver disqualification sanctions for those drivers failing to comply with the restriction, as well as those drivers with CDL licenses who have multiple convictions for violating state and local prohibitions on the use of mobile phones while driving. In addition, interstate motor carriers would be prohibited from requiring their drivers to use a hand-held mobile telephone while operating a vehicle. Please note that this rulemaking effort follows a DOL/OSHA campaign to prevent distracted driving which we mentioned in the October newsletter.

#### Department of Commerce Maritime Administration (MARAD)

- **MARAD Releases Study “Improving Marine Container Terminal Productivity”**—This study is, essentially, a review of productivity metrics and concepts that might be used to measure marine terminal productivity. The paper comments on the variety of measures of productivity, the difficulty in collecting and analyzing the data that is needed, the difference between ports and between marine terminals in measuring productivity, and the fact that some data that would be useful in measuring productivity is proprietary, including labor costs.



Please note that the Transportation Research Board [study](#) on “Truck Drayage Practices” (NCFRP 14) is now in publication and should be available in the not too distant future. (New publications are listed on the right side of the TRB home page, or look under “Projects” for the status of the paper.)

### IN THE CONGRESS

- **Robert C. Byrd Mine Safety Protection Act of 2010 (H.R. 6495) Falls by the Wayside**—House leaders decided to have a vote on this legislation on December 8, 2010, after stripping out the onerous, and contentious, amendments to the Occupational Safety & Health Act which NAWA, among others, opposed. The bill was taken up under suspension of the rules, which requires a two-thirds vote of those present and voting. Although enough votes were available to pass the legislation on a majority vote, the bill failed, by a vote of 214-193, to attain the required two-thirds majority under suspension of the rules. Legislation taken up under suspension of the rules is usually non-contentious, so this vote was a “Hail Mary,” and really intended to embarrass those House members opposed to the legislation.

With the House of Representatives reconstituted under Republican leadership, it is very doubtful that OSHA revisions will be proposed, although revisions to the Mine Safety & Health Act are a possibility.

HERE'S WISHING EVERYONE

A VERY

HAPPY

HEALTHY

PROSPEROUS AND

ABOVE ALL...SAFE

NEW YEAR!!!