Occupational Safety & Health/Worker’s Compensation
In The U.S. Marine Cargo Handling Industry

A History and Overview for Port Industry Executives
Memorializing an internecine turf fight between the U.S. Congress and the Supreme Court, in determining the method (or indeed the existence) of worker’s compensation for injuries sustained “on the navigable waters.”
LHWCA of 1927

- Creates a Federal scheme for the payment of compensation to marine cargo handling and shipyard workers injured "on the navigable waters."

- Clarified by the Supreme Court in:
  - T. Smith & Son v Taylor (1928)
  - Minnie v Port Huron Terminals (1935)
(1951) Organized Labor Initiates Attempts to “Perfect” the LHWCA

- **ILA/ILWU**
- **Boilermakers**
- **Steelworkers**

- Higher than usual number of explosions in shipyards.
- Increased trade volumes w/ more cargo gear failures.
- Political incentives to reseat a Democratic president.
The Political Landscape

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The 85th Congress

- Sustained organized labor efforts to widen LHWCA coverage and increase safety protection.

- Political impetus now gradually translated into labor support for one prospective Democratic presidential candidate.
The 1958 LHWCA Amendments
[Public Law 85-742]

- Political compromise brokered by Lyndon Johnson, with JFK as strongest proponent.
- Resisted by Ike; needed by Richard Nixon in his (1960) bid for Presidency.
- Expanded §41 of LHWCA, to provide for safety standards, enforcement and training.
- Put in the enforcement hands of DOL (LSB).
The Longshoring Industry Safety Regulations

- Published in the Federal Register, February 20, 1960

- Applicability tracked the jurisdiction of enabling legislation (LHWCA), i.e., to work “on the navigable waters”

- Work on terminals therefore, not covered
The Occupational Safety and Health Act of 1970
[Public Law 91-596]

Signed into law by Richard Nixon, December 29, 1970

Extended to all workplaces

Adopted all existing Federal Safety Standards (including the Longshoring safety regulations)

“on the navigable waters” limitations of LHWCA (for safety/health) no longer apply
LHWCA Extensions of 1972

- Brings Federal program of compensation ashore
- Now additionally covers “related employments”
- Substantially boosts amount of compensation paid to recipients (66 2/3% of average wkly wage)
Applicability of OSHA Regulations to Marine Cargo Handling Operations


Horizontal Rules: All regulations contained in 29 CFR Part 1910, OSHA’s Rules for General Industry
The Marine Terminals
Standard

- 29 CFR Part 1917 reduced the volume of applicable regulations by 75%
- Custom tailored in unison with labor & management interests
- Included criteria for safely conducting modern cargo handling operations
- Applies from gate to gangway
Modernizing Part 1918 Standards

- Afloat marine cargo handling rules had very little change since the 1960’s

- Needed to subjectively track, without any variance, the shoreside (Part 1917) rules
Human Suffering
Financial Loss
(With Loss Of Life)
Greater Financial Loss
Accidents: Direct/Indirect Costs

- Worker’s Comp: “The Manual Rate”

- All In Costs: 4-15 Percent of Total Payroll

- Therein lies the difference between profit and loss in an industry with razor thin profit margins
ILA seeks safety talks
Journal of Commerce
Wednesday, December 01, 2004
By: The JOURNAL of COMMERCE ONLINE

The president of the International Longshoremen's Association has called for port safety meetings with employers and federal agencies following recent accidents that killed a union dockworker in New Jersey and injured three others in South Carolina.

"Safety remains a top priority with the ILA as it is with our employers," said ILA President John Bowers. "However, something is wrong when ILA members are killed or critically injured at the work sites. We need to address this problem immediately."
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