



Testimony of Daniel K. Shipp, President  
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Occupational Safety and Health Administration Informal Public Hearing:  
Updating OSHA Standards Based on National Consensus Standards;  
Personal Protective Equipment  
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My name is Dan Shipp, and I am president of the International Safety Equipment Association. ISEA is the trade association for companies that manufacture and sell personal protective equipment, including head protection and eye and face protection devices covered by OSHA's PPE standard.

ISEA is a standards developing organization, responsible for the ANSI standards for these products. As the secretariat for ANSI/ISEA Z87.1 for eye and face protective devices and ANSI/ISEA Z89.1 for industrial head protection, ISEA convenes the consensus bodies that write these standards, which are revised at least every five years. We manage the process by which they are approved as American National Standards. We publish and sell these standards, and we interpret them for producers, users and regulators.

We would like to thank OSHA for convening this hearing to discuss the May 17 proposal to change the way OSHA uses consensus standards for personal protective equipment. ISEA asked for this hearing, believing that an open discussion of the proposal would help the agency to arrive at a solution that streamlines its standards process without adding new compliance burdens and potentially lowering worker protection.

ISEA is sympathetic to OSHA's difficulty in matching its regulatory requirements to the latest version of national consensus product standards. Along with other standards developing organizations, we have been frustrated that the consensus standards cited in OSHA regulations are out of date – in some cases by several generations. It is ironic that employers who use PPE conforming to the latest versions of ANSI standards – the most modern protection available – may be subject to citation for *de minimis* violation of OSHA standards.

ISEA has expressed our concerns in meetings with agency officials, and in writing on numerous occasions. In 1999, we responded to questions from the National Advisory Committee on Occupational Safety and Health (NACOSH) about our standards, procedures and interaction with OSHA.

In that document, we told NACOSH that "ISEA's biggest concern and frustration regarding OSHA's use of voluntary consensus standards is the agency's inability to readily adopt updated standards." We suggested that an ideal solution "would be to attach updated consensus standards in non-mandatory appendices to existing OSHA standards as appropriate."

So ISEA and OSHA are not far apart. We agree on substantial parts of the proposal to streamline the process of updating regulatory references to consensus standards. But we believe that the current proposal goes too far in removing references to specific consensus standards from the regulatory text, and we will offer an alternative that we believe accomplishes the same goal without compromising worker safety.

ISEA submitted written comments on July 16. Let me summarize the main points we made in those comments:

*1. The good design standard concept eliminates baseline performance requirements for protective equipment, and compromises worker safety.*

Employers would have to ensure that PPE is constructed in accordance with a good design standard. This means a standard that specifies safety requirements, is recognized in the US as providing an adequate level of safety, and was developed by a standards developing organization in an open and inclusive process. There is no definition of how a standard would be recognized in the United States, or even what OSHA considers an adequate level of safety.

OSHA would provide guidance by listing in a non-mandatory appendix those standards that meet its good design criteria, and would be presumed to be acceptable. The employer may use a product that does not conform to one of the listed standards, but it must be made to a good design standard and be just as protective as a product made in conformance with a standard listed in the appendix. The problem is that to be listed in the appendix, OSHA will evaluate standards to see if they meet the good design criteria, not whether they are as protective as other standards there.

When PPE performance requirements are a moving target, as we believe they could become under this proposal, there is a threat that workers will be less protected.

*2. All national consensus standards do not offer the same levels of performance.*

ISEA members understand the importance of PPE product standards in protecting workers. Standards make it possible for producers, sellers, specifiers, regulators and users to speak the same language, to understand that, for example, when they get a hard hat that meets a standard it will provide a certain level of impact attenuation, penetration resistance, flammability and dielectric strength. They know that instead of specifying each of these requirements separately, they only need to look for a label that says the helmet meets ANSI Z89.1. They can purchase helmets in different colors, sizes, and designs, knowing that they will offer the same baseline of protection.

But all standards are not equal. National consensus standards for personal protective equipment exist all over the world. In our written comments, we included a chart showing the different performance measures for safety glasses in the US, Europe, Canada, Australia and Japan. We have identified over 180 national head protection standards in 18 countries in addition to the US, plus European and ISO standards. Many of them would satisfy the good design standard criteria, assuming that an importer could get them recognized as providing an adequate level of safety.

But they are far from being equivalent to the ANSI and ASTM standards that have been recognized by OSHA.

*3. OSHA's proposal does not require standards to be equivalent.*

OSHA's proposal would require that PPE be as protective as equipment of the same type that conforms to one of the standards listed in the non-mandatory appendix. But nowhere else does OSHA specify that *standards* have to be equivalent. It intends to update the non-mandatory appendix to include any future national consensus standard it determines meets the requirements of the proposed rule. In other words, it must be a good design standard – specifying safety requirements, recognized in the US and developed in an open process – not a standard that is equivalent in protection. We do not believe that OSHA intends to adopt standards that would lower the level of protection offered by PPE. But under the proposed rule, it could happen.

*4. The proposal does not simplify compliance for employers.*

Most employers are not in a position to evaluate whether a standard meets the good design standard definition, or whether PPE bearing the mark of a standard provides the same protection as ANSI-compliant equipment. As PPE manufacturer U.S. Safety (an ISEA member) pointed out in its comments on the proposed rule, requiring compliance with a specific consensus standard gives the employer a clear set of verifiable guidelines for product selection that is an important tool for health and safety administrators faced with an increasing number of product choices. Removing that clear guidance, especially in a time when new global sources of PPE are available, could force the conscientious employer to devote additional time and resources to evaluating PPE and product standards.

OSHA should not disrupt the long-standing effective approach in which U.S. manufacturers and standards developers produce consensus standards that are trusted by employers and workers, and accepted by the government agency that is responsible for protecting the workforce.

*ISEA proposes a simplified alternative regulatory approach.*

ISEA has proposed an alternative approach to this regulation, which we believe retains the important minimum performance requirements for PPE while providing needed flexibility for both OSHA and the regulated community. It preserves the core of OSHA's proposal, listing applicable consensus standards in a non-mandatory appendix that can be updated through direct final rulemaking.

Under this approach, OSHA would retain references to national consensus standards for eye and face protective devices and protective helmets incorporated by reference in applicable sections of 29 CFR Parts 1910, 1915, 1917 and 1918, updated to reflect the current revision of the standard.

PPE would have to be in compliance with the standard incorporated by reference, or another national consensus standard that provides equivalent protection. A non-mandatory appendix would list national consensus standards that OSHA has found to be equivalent, and therefore acceptable.

To keep its regulations up to date, OSHA would evaluate the adequacy of additional consensus standards for PPE, and list those standards in the non-mandatory appendix when it is determined that they offer equivalent protection to the standard adopted by reference. ISEA believes that OSHA is better able to evaluate additional national consensus standards where they exist, and provide guidance to employers on what is acceptable.

ISEA believes this approach maintains the level of performance of PPE that meets the consensus standard in the current regulation, so that worker protection is not compromised. It gives employers the flexibility to select PPE that best meets their needs, based on hazard assessment. It frees employers from having to do an analysis of whether a PPE standard meets the good design criteria, transferring to the OSHA staff the responsibility to evaluate alternative consensus standards for safety equipment. It gives OSHA the flexibility to update the reference to consensus standards when they are revised, or when a new standard is issued, using technical amendments or the direct final rule method OSHA proposes for updating the non-mandatory appendix.

Under this procedure, OSHA can work hand-in-hand with standards developing organizations as they update consensus standards. ISEA recommends that OSHA establish a policy by which standards developers provide official notification to OSHA when they begin the revision process for a consensus standard included in the regulation or appendix, and at specified milestones during the process. That way OSHA can evaluate the standard as it is being revised, and align its updates to references in the appendix to the consensus process.

Finally, ISEA urges OSHA to continue to seek a permanent solution by which it can keep its regulations current with the consensus standards to which these regulations refer. We encourage OSHA to look at what has been done in other agencies faced with similar problems, notably the FDA recognition of voluntary standards under the Food and Drug Modernization Act of 1997, and the administrative simplification provisions of the HIPPA Act of 1996. ISEA will be glad to work with OSHA in this regard, and we believe that other standards developing organizations would as well. If the language of the OSH Act continues to be a deterrent, we would pledge our support to getting enactment of necessary legislative changes.