



INTERNATIONAL SAFETY EQUIPMENT ASSOCIATION

Testimony of Daniel K. Shipp, President
International Safety Equipment Association
Occupational Safety and Health Administration Informal Public Hearing
Proposed Rule: Walking-Working Surfaces and Personal Protective Equipment
(Fall Protection Systems), 29 CFR Part 1910
Washington, DC, January 18, 2011

ISEA is the trade association for personal protective technologies. Our member companies design, manufacture and sell the full range of personal protective equipment used in workplaces around the world, including fall arrest equipment and systems. ISEA is accredited by the American National Standards Institute (ANSI) as a standards developing organization, and is a member of the ANSI Z359 committee for fall protection and the ANSI A109 committee on construction and demolition operations, which includes A10.32 for fall protection in construction. Through our member companies, we also have liaison with fall protection standards committees around the world.

We appreciate the opportunity to appear at this hearing and comment on the proposed rule on walking working surfaces and fall protection systems. ISEA recognizes the importance of comprehensive, relevant and practical OSHA regulations that will result in meaningful protection of the nation's workforce from fall hazards.

In our comments submitted to OSHA in August, we covered a number of points in the proposed rule, and reviewed new advances in fall protection and fall arrest technology. Our comments are on the record, and I am not going to go over them again today. Rather, I'd like to address the proposal in general terms, and offer ISEA's view on the importance of making these rules applicable to all workers.

I think we'd all agree that the ideal way to protect against falls to a lower level would be to design structures and processes that offer no fall risks. But we live in a vertical world, where people must work at heights. OSHA has jurisdiction over employers, to ensure that any multi-story work environment provides as much assurance as possible that workers won't fall and suffer injuries or death.

This basic principle, that protection needs to be provided equally to all workers, argues against exempting certain classes of workers or occupations from fall protection rules where there are technologically feasible, practical and affordable means of preventing fall injuries.

ISEA questions why there should be any blanket exemptions in the fall protection rules, whether based on training, the work environment or the type of work being done. Modern fall protection technologies have evolved significantly since OSHA first proposed an update to subparts D and I, back in 1990. Fall protection that may not have been available when exemptions were created and approved by OSHA 15, 20 or more years ago are now in common use. A fall risk is a fall risk, and exemptions from the rules should be examined on a case-by-case basis and not broadly established in the regulatory text.

For example, several commenters have asked OSHA to add an exemption for inspection, investigation or assessment of workplace conditions prior to the start of maintenance work or

after such work is completed. They cite the exemption for such work in the construction regulations at 29 CFR 1926.500(a)(1).

OSHA's rationale for the construction exemption is that inspectors are more likely to be aware of their footing because they are not accustomed to working at height, and that they are likely to be exposed to a fall hazard only for a short duration. OSHA also noted that setting up fall protection systems could create a greater hazard.

It is certainly possible to envision a situation in a construction setting where an inspector has to check out a work area in which a fall protection system has not been set up, but it seems much less likely that such a situation would occur in general industry. If maintenance work is going to be performed in an area that requires fall protection, it seems unlikely a fall protection system would have to be set up specifically for a pre-work inspection. The assessment that setting up a fall protection system could create a greater hazard is also outdated, considering today's available technology such as tie-back lanyards and self-retracting life lines.

In addition, OSHA suggests that inspectors will only be exposed to fall hazards for a short duration. But duration of exposure is meaningless. The inspector may only be at risk for a few seconds, but it takes less than a second to lose footing and fall.

Commenters have referred to a 2009 OSHA interpretation (letter #20091112-9340) as providing additional support for the exemption. But we note that the interpretation makes it clear that OSHA expects that "inspectors likely would be able to accomplish their work without going near the danger zone," and "[s]cenarios that keep employees in close proximity to a fall hazard would not fall under the exemption allowed by §1926.500(a)(1)." In other words, entering an area that is unsafe for a worker without fall protection is also unsafe for an inspector. This interpretation argues against providing any exemption for inspection, investigation or assessing workplace conditions in an area that would put the worker performing these functions at risk.

ISEA believes that OSHA is correct in not proposing an exemption for inspection, investigation or assessing workplace conditions in the general industry rule. In fact, we would propose that OSHA amend the construction regulations to clarify that the exemption for inspections is not intended to allow workers to enter a danger zone without adequate fall protection.

The range of fall protection solutions today allows for safe work at heights, no matter what type of work. Modern fall protection solutions include ladder climbing systems, such as fixed rail systems, twin-leg lanyards or vertical life lines with rope grabbing fall limiters; and retractable devices that allow worker movement while staying tied off. For anchorages there are tie-back lanyards (strong enough to suspend an SUV) and portable anchors.

In addition, today's fall protection manufacturing firms are competitive engineering and technology companies. They routinely create new fall protection solutions, including custom-made solutions, using modern technology for a wide array of workplace fall hazards. For example, using RFID technology both fall protection and other PPE manufacturers provide solutions to employers to assess if equipment is in working order and compliant with OSHA regulations.

ISEA and its member companies are ready to provide additional information on modern fall protection technologies and equipment. If OSHA staff would like product demonstrations or a plant visit to witness manufacturing and testing, please let us know.