

Workplace Falls Get Fresh Attention

Chemical Processing, August 2010

By Lynn L. Bergeson

The U.S. Occupational Safety and Health Administration (OSHA) is tackling a major source of industrial injuries — slips, trips and falls on workplace surfaces. On May 24, OSHA proposed significant revisions to Subparts D and I of the general industry standards dealing with walking-working surfaces and personal protective equipment (PPE), respectively. This column outlines the reasons why OSHA believes changes are needed to protect workers, and key revisions to these standards.

According to the Bureau of Labor Statistics, over 106 million employees work in more than six million establishments regulated by OSHA under its Subpart D standards. Slips, trips and falls constitute 15% of all accidental deaths, a surprisingly high number, and are second only to motor vehicles as a cause of employee fatalities. OSHA's interest in curbing these types of injuries dates back to 1971 when it issued initial standards under Section 6(a) of the Occupational Safety and Health Act. In 1990, OSHA proposed to revise the Subpart I standard in conjunction with revisions to the Subpart D standard. In 2003, OSHA reopened the rulemaking record and republished the 1990 proposal to refresh the record due to the protracted period since the original 1990 proposal. The May 2010 proposal replaces the 1990 proposal in its entirety and expands its scope to address more-recent issues and concerns.

Key Proposed Revisions

The proposal seeks to reflect current industry practices and the provisions of national consensus standards. In addition to clarifying and reorganizing provisions, eliminating duplication and, as OSHA notes, "extensive specification of requirements," the proposal incorporates construction scaffolding standards, thus eliminating the need for most scaffolding specifications in general industry.

Subpart I would gain a new section that would provide criteria for fall protection equipment. The new section is intended to make the general industry standards consistent with existing construction and maritime standards regulating fall protection as well as with current industry practices. The section also is intended to provide clear standards on fall protection PPE to employers.

OSHA proposed to amend a number of general industry standards that establish a duty to use PPE by requiring that PPE meet the new requirements of Subpart I. For example, paragraph (g) of Section 1910.269 requires personal fall arrest systems to meet the requirements of Subpart M of the construction industry requirements. This provision would be revised to require personal fall arrest systems to meet the largely parallel criteria requirements of Subpart I of Part 1910, the general industry requirements. Subpart M of Part 1926 differs from proposed Subpart I in that Subpart M addresses fall arrest systems used in construction of elevator shafts while Subpart I doesn't address the construction of elevator shafts. In addition, Subpart I uses performance

language with regard to anchorages for fall arrest systems while Subpart M specifically prohibits the use of guardrails as anchorage points.

Finally, OSHA has proposed to add two non-mandatory appendices to Subpart I to provide examples of test methods and procedures that will assist employers and PPE manufacturers to demonstrate compliance with the criteria proposed in Section 1910.140.

Inputs sought

OSHA requested comment on a long list of topics organized around five key sets of issues: fall protection on rolling stock and motor vehicles; fall protection for employees standing or climbing on stacked materials; qualified climber; building anchorages for rope descent systems; and technological advances in fall protection and fall arrest. Within each issue set, OSHA identified in the Federal Register notice a detailed list of subquestions, review of which will reveal some directional trends on where OSHA's interest may be with respect to a particular area. Comments were due to OSHA on August 23, 2010.

Affected employers were expected to comment extensively on the proposal given the significant impact implementation of the rule is expected to have on them. As is always the case, the value and success in achieving OSHA's goals underlying the final rule will result in large measure from the quality of the information affected employers provide to OSHA as it develops this momentous rule.

In that the rule, if implemented, annually could prevent up to 20 workplace fatalities and over 3,700 injuries (sufficient to incur days away from work), swift promulgation of improved standards will benefit workers. Stay tuned for more information on the status of OSHA's efforts in this regard.

Lynn L. Bergeson is Chemical Processing's Regulatory Editor. You can e-mail her at Lbergeson@lawbc.com. Lynn is managing director of Bergeson & Campbell, P.C., a Washington, D.C.-based law firm that concentrates on chemical industry issues. The views expressed herein are solely those of the author. This column is not intended to provide, nor should be construed as, legal advice.