



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS

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Occupational Safety and Health Administration
200 Constitution Ave. NW,
Washington,
DC 20210

ASSP Technical Comments Addressing OSHA Emergency Response Standard

Topic: OSHA Emergency Response Standard
Date: Federal Register; February 5, 2024
Agency/Docket Number: OSHA-2007-0073, RIN 1218-AC91
Agency: U.S. Department of Labor
Occupational Safety and Health Administration

Per the February 2024 Federal Register announcement, we submit the following information to address this request:

OSHA is proposing through this notice of proposed rulemaking (NPRM) to issue a new safety and health standard, titled Emergency Response, to replace the existing Fire Brigades Standard. The new standard would address a broader scope of emergency responders and would include programmatic elements to protect emergency responders from a variety of occupational hazards. The agency requests comments on all aspects of the proposed rule.

ASSP Background

[American Society of Safety Professionals \(ASSP\)](https://www.assp.org) is the oldest society of safety professionals in the world. Founded in 1911, we represent more than 36,000 professionals advancing workplace safety and health in every industry and state and around the globe. ASSP members have upheld the occupational safety and health (OSH) community's standards for excellence, ethics and practice for more than 100 years.

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Response from the members of our impacted practice specialties noted their support of this proposed rule with technical comments and insights via this *Notice of proposed rulemaking (NPRM)*. Please note that ASSP has a Fire Protection Practice Specialty and the members of this practice specialty offered technical insights into this announcement.

ASSP's [Fire Protection Practice Specialty](#) member community helps to advance workplace safety by specifically addressing fire protection and prevention, emergency preparedness and disaster mitigation issues. We have extensive fire safety experience and expertise within this community, serving as an invaluable resource for networking and providing access to technical content on related topics.

Protecting workers from fire hazards is a critical component of workplace safety. In fact, ASSP was born out of a desire to protect workers from fire and other hazards after a tragic factory fire took the lives of nearly 150 workers more than 100 years ago. To prevent similar tragedies, safety professionals must have access to technical content and resources on the latest fire safety topics and trends, all of which we develop and share with our community members.

General Technical Comments and Insights

ASSP had a significant number of comments from our members following a review of this proposal. Our overall comment is that this is a good direction for emergency response. We also received some general universal comments from ASSP members noting the transportation component is not adequately covered. We suggest the Federal Railroad Administration [FRA], United States Pipeline and Hazardous Materials Safety Administration, [PHMSA], and the Federal Motor Carrier Safety Administration, [FMCSA] should be involved, but from the announcement they apparently were not. A transportation accident is likely and it exposes more volunteer, or less than adequately trained fire departments, to combat an incident or disaster. The recent real incident/accident in Ohio is a good example of the concern we are noting. Coordination between these agencies is important. Volunteer departments could/should have access to HazMat Security plans required by PHMSA, which outline risks and exposures.





Society members appear to agree on four main issues:

- ✓ The view is that this proposed rule would/could potentially improve emergency response operations, and it does clarify the responsibilities of emergency responders and the role of the organization.
- ✓ The proposed rule will pose significant implementation challenges for organizations and occupational safety and health professionals. Implementation could be challenging for smaller organizations with a lack of resources, which includes technical and professional insight from OSH professionals.
- ✓ OSHA is trying to regulate emergency practices and procedures that have been in existence for decades. These practices and procedures will continue to evolve. Our concern is that if OSHA puts some of these practices in regulation it may impact future innovations in a negative manner.
- ✓ Many ASSP members noted they were chagrined OSHA did not recognize any of the ANSI/ASSP Standards even though they do address issues addressed by the proposed rule. It is recognized that this proposal addresses emergency response, but our standards should be reviewed as potential documents addressing accepted practices and procedures.

Additional Technical Comments

ASSP members did note some concern with the definitions and agree with this insight in a [legal review of the proposed rule](#) by the law firm Ogletree Deakins:

One of the biggest issues associated with the proposed standard is the absence of specific definitions, action levels, and exposure limits, which makes the compliance expectations unclear. For instance, the standard uses a number of terms that, while commonly used, have no corresponding definition within the standard (nor reference to other standards for definition) to guide covered employers. These terms include “contaminants from fire,” “toxic chemicals,” “known or suspected toxic products,” and “dangerous substances.” While there are express expectations regarding an employer’s conduct related to these terms, the absence



of a definition or other quantitative action level leaves employers guessing as to what OSHA expects of them.

Our members also noted that the insights addressing ICS in the same article warrant review by OSHA:

Application of ICS

The concept of ICS was developed more than fifty years ago, after a California wildfire left sixteen people dead, 700 structures destroyed, and more than a half million acres burned. The loss from that fire was calculated at more than \$18 million per day (in 1970s dollars) and highlighted numerous problems with communication and coordination efforts between the many responding agencies. Starting as a California-only concept, the first version of ICS was referred to as FIRESCOPE (Firefighting Resources of Southern California Organized for Potential Emergencies) and applied solely to wildland fires. By the mid-seventies, the initial FIRESCOPE participants had formally agreed upon on ICS's common terminology and procedures and conducted limited field-testing of ICS. In 1982, all FIRESCOPE ICS documentation was revised and adopted as the National Interagency Incident Management System (NIIMS). That document would later serve as the basis for the National Incident Management System (NIMS) ICS.

Though OSHA's proposed standard heavily references ICS and requires all ESOs/WEREs/WERTs to adopt ICS, it fails to reference NIMS. While ICS has been used for decades in firefighting, its primary use in the other covered types of emergency response is in conjunction with responses to major events where responders from multiple organizations deploy personnel. ICS is not commonly used in EMS, save for and except to the extent used in coordinated responses like the Federal Emergency Management Agency (FEMA) National EMS response. Even when used under the FEMA National EMS response, the application of ICS is a coordination process and not a unit-by-unit response.

The vast majority of EMS providers work alone and/or in conjunction with a small group of responding units where the high degree of coordination and control of ICS is not necessary, and, therefore, not used. The proposed standard, however, appears to require the use of ICS to events as modest as a single ambulance being





called to assist someone having an allergic reaction to a bee sting or the transport of a patient from a lower to higher acuity care facility via aircraft. For the single unit response, one of the crew becomes the incident commander, bears incident commander responsibilities, and assumes a significant planning, debriefing, and documentation burden.

Unfortunately, the cumbersome nature of the proposed standard's reliance on ICS not only fails to recognize the limited utility of incident command systems in small responses, it also fails to recognize decades of safe and healthful EMS practice without ICS. Ambulance staff is often an emergency medical technician (EMT) and someone with a higher level of licensure, such as a paramedic or equivalent (depending on the state licensure nomenclature). The person with the more advanced license is the person responsible for leading the crew and serves as the supervisor. That supervising crewmember is also typically the person providing the patient medical care while the other is driving. Thus, in addition to being the caregiver, the supervising crewmember will also be responsible for being incident commander and bear the corresponding documentation responsibilities.

While it can be argued that requiring ICS only formalizes the traditional roles of EMS, the requirement that the supervising person function as the incident commander can be expected to serve as a distraction from providing patient care. In addition, the added layers of planning, debriefing, and documentation can be expected to cause redeployment of the crew to be delayed. In larger communities that have plenty of resources, this may not be an issue, but in smaller or rural communities where times to complete calls tend to be long, any added delay is potentially troublesome.

In the past, OSHA has relied on an employer's implementation of ICS as the basis for claims related to joint and co-employment, alleging that the level of control the incident commander has in ICS establishes liability under OSHA's multi-employer citation policy (MECP) (i.e., as a controlling employer directing the work of others). Thus, the incident commander employer has greater exposure to OSHA liability than it would otherwise have when ICS is not implemented, because the incident commander is deemed to have taken responsibility for the health and safety of all responders, not just those employed by his or her organization.





Additionally, other ESOs/WEREs/WERTs could be cited if their conduct in an emergency response created or failed to correct a hazard, or exposed their personnel to a hazard, even though they are not in charge of the emergency responders under the ICS model.

We noted that OSHA references AFFF in the proposed rule. It should be noted that the Federal government is continuing to investigate the impact of AFFF on exposed people and there is litigation addressing past use. We suggest that OSHA consider the inclusion of AFFF in the proposed rule. From our review it appears it is included without any specific application in the proposed rule. If OSHA is proposing the use of AFFF for firefighting that should be included in any final rule explanation in the future.

Consensus Standards

As an advocate for workplace safety and OSH professionals, ASSP understands the importance of leading the discussion and evolution of voluntary safety standards. ASSP is the secretariat for 11 American National Standards Institute (ANSI) committees responsible for more than 100 safety standards. ASSP's role in the standards development process is to organize the committees and ensure the standards are developed, revised and published in a timely manner and in accordance with ANSI procedures.

We recognize the proposal is addressing emergency response. However, OSHA asks for insight on issues that are addressed by several of our standards, but OSHA did not provide any recognition for them. We included citations to specific ANSI/ASSP Standards addressing areas impacted by our standards.

ASSP has the following occupational [safety and health standards committees](#):

- ✓ Construction & Demolition Operations (A10)
- ✓ Walking/Working Surfaces (A1264)
- ✓ Ventilation Systems (Z9)
- ✓ Safety and Health Metrics (Z16.1)
- ✓ Fleet/Motor Vehicles (Z15)
- ✓ Confined Spaces (Z117.1)





- ✓ Lockout, Tagout and Alternative Methods (Z244.1)
- ✓ Fall Protection and Fall Restraint (Z359)
- ✓ Hydrogen Sulfide Training (Z390.1)
- ✓ OSH Training (Z490)
- ✓ Overall OSH [Z590]
- ✓ OSH Management (Z10; ISO 45001)
- ✓ Risk Management (ISO 31000)

Questions in the Summary and Explanation - OSHA

(a)-1. OSHA is seeking information about how many private-sector emergency response organizations in States without State Plans (Federal OSHA States) have workers who are called volunteers but who receive substantial benefits, such as a retirement pension, life and/or disability insurance, death benefits, or medical benefits. How many such workers do these organizations have and of what type(s) (fire, EMS, technical rescue)?

ASSP: We believe this question is not clear regarding what is being asked since the question appears to be directed at volunteers, but there are some differences to consider. For example, we talked with a variety of our members who work with fire departments, EMS units, and fire brigades. OSHA needs to better differentiate what it sees as a volunteer. Our members noted:

- ✓ Volunteer rank-and-file firefighters generally do not receive the benefits noted in the question. We do not have specific data, but note we heard back from approximately 100+ members that have backgrounds with this issue. Our members working with volunteer departments noted there are generally few benefits, (e.g.: reduced county tax for vehicle, less than \$100). Our members noted that they volunteer/participate not for the salary, but rather to give back to the community
- ✓ A number of fire chiefs or senior officials in volunteer departments do receive some of the benefits listed in the question. Of interest, we note that the average salary of volunteer department fire chiefs estimated by ZipRecruiter is \$124,400. Several ASSP members lead, or have led, volunteer departments and they did confirm this salary number and that rank-and-file volunteer fire fighters do not receive the benefits listed in the question.





(a)–2. OSHA is seeking information about which States with OSHA-approved State Plans expressly cover volunteer emergency responders. In those States, how many emergency response organizations have volunteers? How many volunteers do they have and of what type(s) (fire, EMS, technical rescue)?

ASSP: We are not aware of any data covering this specific issue. Our members did note they are somewhat puzzled by the term “technical rescue” from the perspective of volunteers. OSHA is apparently suggesting that technical rescue is outside of volunteer fire departments? Our experience is that professional technical rescue many times is associated with specific companies and organizations that provide these types of services. We do not think they would not be viewed as a volunteer organization from the perspective of this question. We base our answer on the organizations participating with our various standards development committees for fall protection, confined spaces, and emergency response.

(a)–3. OSHA is seeking information from States with OSHA-approved State Plans that do not expressly cover volunteer emergency responders. In those States, how many emergency response organizations have workers who are called volunteers but receive substantial benefits, such as a retirement pension, life and/or disability insurance, death benefits, or medical benefits; and as such may be considered employees within the meaning of Federal law? How many such workers do these organizations have and of what type(s) (fire, EMS, technical rescue)? Additionally, OSHA seeks similar input regarding inmate/incarcerated workers.

ASSP: Our responses to the first two questions address this issue.

(a)–4. OSHA is seeking input regarding what types and levels of search and rescue services and technical search and rescue services should be included or excluded from the rule, and the extent to which those inclusions or exclusions should be specifically listed.

ASSP: We are not following the question since we are not sure what scenarios would be exempted.





The OSHA proposal asks for insight into types and searches of rescue. We were surprised to see that none of the ANSI/ASSP voluntary national consensus standards were listed as references since they specifically address many of the scenarios noted in the proposed rule:

- ✓ [ANSI/ASSP A10.12-2022 Safety Requirements for Excavation](#)
- ✓ [ANSI/ASSP A10.26-2011 \(R2016\) Emergency Procedures for Construction and Demolition Sites](#)
- ✓ [ANSI/ASSP A10.34-2021 Protection of the Public on or Adjacent to Construction Sites](#)
- ✓ [ANSI/ASSP A10.43-2016 Confined Spaces in Construction and Demolition Operations](#)
- ✓ [ANSI/ASSP Z117.1-2022 Safety Requirements for Entering Confined Spaces](#)
- ✓ [ANSI/ASSP Z359.4-2013 \(R2022\) Safety Requirements for Assisted-Rescue and Self-Rescue Systems, Subsystems and Components](#)
- ✓ [ANSI/ASSP Z359.14-2021 Safety Requirements for Self-Retracting Devices for Personal Fall Arrest and Rescue Systems](#)

(a)–5. OSHA is seeking input whether the agency should consider developing a separate rule for protecting workers involved in the clean-up of disaster sites, and associated recovery efforts? Why or why not?

ASSP: Our members noted that the long-standing OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) already applies to the clean-up and release of hazardous substances for emergency response operations. ASSP members providing comments suggested that the best approach would be to revise the current rule and include the specific requirements that OSHA believe is missing. Having a separate rule with the potential for duplication and conflict would be potentially difficult for occupational safety and health professionals to implement in the workplace.



(a)–6. OSHA is seeking input on whether the agency should consider excluding other activities besides those in 29 CFR 1910.120 (Hazardous Waste Operations and Emergency Response (HAZWOPER)), 29 CFR 1910.146 (Permit-Required Confined Spaces in General Industry).

ASSP: Based on the question our members are not following what activities OSHA would like to include?

(b)–1. OSHA is seeking information and data from commenters on whether WEREs have living areas for team members, and if so, whether WEREs should be included in the definition for Living area.

ASSP: Our members have commented that there are facilities where WERE employees have living areas, but this is mostly due to being assigned regular duties in addition to emergency response.

Potential examples include:

- ✓ Oil and gas rigs and platforms
- ✓ Maritime applications
- ✓ Military and civilians on some installations

(e)–1. OSHA is considering adding to both paragraphs (e)(1) and (2) a requirement to permit employee representatives to be involved in the development and implementation of an ERP, and to paragraph (e)(4) a requirement to allow employee representatives to participate in walkaround inspections, along with team members and responders, and is seeking input from stakeholders on whether employee representative involvement should be added to paragraph (e).

ASSP: Our members would like to see OSHA provide additional clarification to this question. During March OSHA announced a final rule clarifying the rights to employee representation during OSHA inspections. Our members have consistently commented on the need for consistent language in rules. We understand the March announcement addresses OSHA inspections, but we note from history that there is potential here for



duplication and conflict. During future announcements, we would appreciate seeing additional clarification on this issue and how OSHA would maintain consistency in regulatory approaches.

It should be noted that the language in our ANSI/ASSP Standards provides strong language on the need for employee participation. ASSP members commented that employee participation is an important component of successful occupational safety and health programs, which would include emergency response planning.

(f)-1. OSHA is seeking input on whether other activities or subjects should be specifically included in the list of minimum requirements for the risk management plan.

ASSP: Our membership and standards development participants recommend that OSHA review our risk assessment and risk management standards. These standards are well known, recognized, and respected. If OSHA would like to review these documents, please let us know and they will be provided to the agency.

- [ANSI/ASSP/ISO 31000-2018 Risk Management - Guidelines](#)
- [ASSP/ISO TR-31000-2022 Technical Report: Risk Management – A Practical Guide](#)
- [ANSI/ASSP/ISO/IEC 31010-2019 Risk Management - Risk Assessment Techniques](#)
- [ASSP TR-31010-2020 Technical Report: Risk Management - Techniques for Safety Practitioners](#)
- [ANSI/ASSP/ISO 31073-2022 Risk Management - Vocabulary](#)

We also see this as an opportunity for OSHA to raise recognition and awareness of the importance and significance of the concept of “Prevention Through Design”

Occupational safety and health professionals can use this standard to conduct a life-cycle assessment and develop a design model that balances occupational safety and health goals over the lifespan of a facility, process, or product. The concepts would/could potentially apply to emergency response.





[ANSI/ASSP Z590.3-2021 Prevention through Design Guidelines for Addressing Occupational Hazards and Risks in Design and Redesign Processes](#)

[ASSP TR-A10.100-2018 Technical Report: Prevention through Design - A Life Cycle Approach to Safety and Health in the Construction Industry](#)

(f)–2. OSHA is proposing to have a performance-based infection control program provision in the risk management plan. OSHA is seeking comment on this approach including whether a final standard should incorporate a particular consensus standard or other guidance, or otherwise include specific requirements regarding infection control.

ASSP: OSHA should note that the following ISO standard was recently approved and was approved as ANSI Registered Technical Report:

[ASSP/ISO TR-45006-2024 Occupational Health and Safety Management - Guidelines for Organizations on Preventing, Controlling and Managing Infectious Diseases](#)

Scope: This document gives guidelines for organizations on how to prevent or control exposure to infectious agents at the workplace and manage the risks associated with infectious diseases that:

- present a risk of severe ill health or death and can impact the health, safety and well-being of workers and other relevant interested parties;*
- present a lower risk to health yet have a significant impact on the organization, its workers and other relevant interested parties.*

This document is applicable to organizations of all sizes and sectors

OSHA is a member of the United States Technical Advisory Group to the American National Standards Institute, [ANSI] for ISO Technical Committee 283. This committee is responsible for the development of the ISO 45006 standard and nationally registered technical report.

If OSHA would like to review this document, please let us know and it will be provided.





(g)–1. OSHA is seeking input and data on whether the proposed rule's requirements for medical evaluations are an appropriate minimum screening. Should the minimum screening include more or fewer elements, and if so, what elements? Provide supporting documentation and data that might establish the appropriate minimum screening. OSHA is also seeking additional data and information on the feasibility of the proposed medical evaluation and surveillance requirements for WEREs and ESOs.

ASSP: We made inquiries to members on this and specifically to members of our Healthcare Practice Specialty. Unfortunately, we do not have data on this issue.

(g)–2. OSHA is seeking input on whether an action level of 15 exposures to combustion products within a year is too high, too low, or an appropriate threshold. OSHA is also considering action levels of 5, 10, or 30 exposures a year as alternatives and is seeking public input on what action level would be appropriate. Provide supporting documentation and data that would help with identifying an appropriate action level.

ASSP: We did see the AIHA comment on this issue, and their insight should be considered:

“...Exposures to combustion products are variable and setting a limit for the number of allowable exposures to combustion products within a year is not practical. The number of allowable exposures depends on actual exposures to many different combustion products, including trace gases and other various particulates. Many of these combustion products may contain known human carcinogens. AIHA believes that there is no safe level of exposure to occupational carcinogens. Depending on multiple exposures, any medical response is specific to the situation. Any route of exposure to these combustion products must be kept as low as reasonably possible. (Please refer to AIHA Synergist article: “Analysis of Wildfire and Structure Fire Combustion Residues”^v and AIHA’s “Technical Guide for Wildfire Impact Assessments for the Occupational and Environmental Health and Safety Professional”.^{vi}) | aiha.org Recommendations on OSHA’s Proposed Emergency Response Rule...”

(g)-3. OSHA is seeking input on whether the additional medical surveillance proposed in paragraph (g)(3) should be extended to include WEREs and team members.



ASSP: Our members noted that OSHA uses the term “should:”, but OSHA needs to clarify whether or not OSHA is planning to require additional medical surveillance proposed in paragraph (g)(3) should be extended to include WEREs and team members.

(g)–4. OSHA is seeking input and data on whether stakeholders support the proposed fitness for duty requirements or whether the requirements pose a burden on or raise concerns for team members, responders, WEREs or ESOs. Commenters should provide explanation and supporting information for their position.

We note the following from the proposal:

“...Prior to performing emergency response duties, each team member and responder shall be medically evaluated to determine fitness for duty by a physician or other licensed health care professional (PLHCP), in accordance with paragraphs (g)(2)(iii) through (vi) of this section, and each responder shall also be evaluated in accordance with paragraph (g)(3) of this section. The WERE and ESO must make medical surveillance required by this paragraph (g) available at no cost to the team members and responders, and at a reasonable time and place, to each team member and responder...”

ASSP members noted that based on their experience many medical surveillance programs exist, however this is not universal. For example, smaller volunteer organizations may not know to have this in place or understand the need.

Several members noted there are teams at various sites in a medical surveillance program based on the hazards present (e.g. respiratory protection and arsenic). However, based on comments from members, if an assessment is not correctly conducted some elements of a program and personnel may not be included in a medical surveillance program. We have seen various sites where an inadequate assessment was conducted and respiratory protection was provided but the workers were not involved in a medical surveillance program.

OSHA reported that during the SBREFA meetings there were comments that fitness for duty would be difficult to implement. Our members commented that they already include most of these components in their existing programs.



(g)–5. OSHA is seeking input on whether the health and fitness program in proposed paragraph (g)(6) should be extended to include WEREs and team members.

ASSP: Our members noted that OSHA uses the term of “should;”, but OSHA needs to clarify whether or not OSHA is planning to require that health and fitness programs be extended to include WERE’s and team members.

(g)-6. OSHA is seeking input on whether every three years is an appropriate length of time for fitness re-evaluation, and if not, what period of time would be appropriate. The agency is seeking any available data to support an alternative length of time between evaluations.

ASSP: We do not have data on this issue, but our members did not express concern with the three year requirement.

(h)-1. OSHA is seeking stakeholder input and data regarding the appropriate methods and interval(s) for skills checks, as it relates to proposed paragraph (h)(3).

ASSP: If OSHA does address this issue, it is important to review the applicable voluntary national consensus standard. For example, our Z117 confined space standard addresses training, skills, and intervals. We have seen similar requirements in other standards so our concern is that OSHA would create a standard that conflicts or duplicates existing voluntary national consensus standards. We would like to see more detail and information about the tasks being considered for rulemaking.

(i)-1. OSHA is seeking input regarding what WEREs are currently doing for decontamination, disinfection, cleaning, and storage of PPE and equipment, and whether OSHA should include any additional requirements for these processes in a final standard.

ASSP: Our members reported that are sites where OSH professionals conduct training and provide the requirements for decontamination procedures. Members also noted that some organizations have a strict policy and use an outside agency to assist. While this can be expensive, it ensures proper decontamination and the vendor documents this process for the equipment, both training and non-training equipment. ASSP members also noted that in their view there is not enough data on documented processes and fire brigades.



(j)-1. OSHA is seeking input on whether the agency should consider prohibiting the installation of fire poles in new ESO facilities.

ASSP: Our members noted that there are already existing standards addressing fire protection facilities. We suggest that OSHA pass on trying to promulgate regulation on fire poles.

(j)-2. OSHA is seeking input on whether ESO facilities with sleeping facilities should be protected by automatic sprinkler systems, as proposed in paragraph (j)(2)(ii).

ASSP: Our members noted that there are already existing standards and state regulations addressing fire protection suppression systems. We suggest that OSHA pass on trying to promulgate regulation on automatic sprinkler systems and refer to existing standards and rules.

(k)-1. OSHA is seeking input on whether the agency should specify retirement age(s) for PPE.

ASSP: We strongly recommend that OSHA not consider doing this. Having an artificial retirement age will generate issues and concerns. We have significant experience addressing this overall issue via our standards development activities. The proposal addresses PPE for emergency response, but our experience will provide a case study for OSHA on why it should not consider this addition.

We originally had a five-year requirement on fall protection in our ANSI/ASSP A10.32 Standard. Removing this requirement required significant work, effort, and polarizing debate with different stakeholders. This put ASSP into the position of responding back on the issue of a standard versus manufacturer instructions. The last thing OSHA should seek to do, is put itself in the position of potentially going across manufacturer instructions. This potentially put OSHA into direct conflict with existing consensus standards addressing personal protective equipment. OSHA should recall that we went to the Agency in the past on PPE issues where the Agency did not correctly use fall distance equations from our standards, which caused issues with end users, manufacturers, and our standards.



Finally, we will attach an extensive discussion on this as an appendix addressing why specific retirement ages would be an error. This discussion also goes into some technical detail indicating why an artificial PPE retirement age established by OSHA is not a good idea.

Numerous ASSP members noted that some specialized equipment is not utilized on a regular basis. If storage of equipment and regular inspections are regularly performed and maintained, some equipment can be utilized for greater than specific time limits such as five years. As an example, several members commented that through their experience they have worked with fire brigades with good equipment storage facilities and inspections performed on a regular basis. This resulted in some equipment lasting greater than ten years.

The last thing we would want to see is OSHA trying to address PPE with arbitrary expiration dates in this manner. Let us reiterate that we strongly recommend that OSHA not try to implement artificial PPE retirement dates.

(k)-2. OSHA is seeking input regarding whether and how WEREs and ESOs currently provide separation and distinction of PPE and non-PPE equipment that have not undergone gross decontamination.

ASSP: ASSP members reviewed the question, and we are not sure we understand the context of the question. Several members noted they not sure if OSHA is referring to tools and monitoring equipment used in assessments and response activities or general PPE processes.

(k)-3. OSHA is seeking information on whether there is evidence of per-and polyfluoroalkyl substances (PFAS) in PPE causing health issues for team members and responders.

ASSP: NIOSH has extensive materials on these substances. Below is a homepage.

<https://www.atsdr.cdc.gov/pfas/>



Other sites OSHA may wish to review:

<https://www.sciencedirect.com/science/article/pii/S0304389422009104>

<https://www.atsdr.cdc.gov/pfas/health-effects/pfas-exposure-and-your-body.html>

<https://www.publichealth.va.gov/exposures/pfas.asp>

<https://www.niehs.nih.gov/health/topics/agents/pfc>

<https://www.epa.gov/chemical-research/research-and-polyfluoroalkyl-substances-pfas>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7906952/>

(k)–4. OSHA is seeking input on whether the scheduled updates to NFPA 1971 will address or alleviate stakeholder's concerns about PFAS in PPE.

ASSP: The Society has long-term experience with NFPA and standards development. NFPA is a well-respected standards developing organization. We know from experience that OSHA will consider these issues if submitted to NFPA during the revision process.

(l)–1. OSHA is seeking information on whether there are any other situations or vehicles where OSHA should require, or exclude, the use of seat belts and vehicle harnesses. If so, please explain.

ASSP: The ANSI/ASSP Z15.1 Standard does address seatbelts. The standard notes:

Section E41.: Occupant restraints include all of the following:

- *safety belts*
- *infant seats*
- *child safety seats*
- *booster seats*
- *supplemental restraint systems (air-bags)*



Organizations shall establish policies addressing the use of occupant restraints, including the use of safety belts (seat belts/ shoulder harness).

In accordance with applicable state laws, drivers and all passengers should utilize safety belts and appropriate child restraints for their safety. Safety belts must be adjusted and used properly to protect the occupants. Users should consult the vehicle manual on the proper method of use and adjustment.

Where state law does not require use of occupant restraints by persons in all seating positions, organizations should implement a policy requiring occupants in all seating positions to use occupant restraints. Such a policy reinforces state laws that currently have these provisions, and provides additional protection for workers in states whose laws do not require use of occupant restraints by persons in all seating positions.

If OSHA would like to review this standard, please let us know and a copy will be made available:

[ANSI/ASSP Z15.1-2017 Safe Practices for Motor Vehicle Operations](#)

(1)-2. OSHA is seeking input on how compliance with (1)(2)(iii) would be achieved in situations where PPE must be donned enroute to an incident. Would the team members or responders stop enroute or wait until arrival at the scene?

ASSP: We are not following the question. Our experience is that most emergency responders put on their equipment before going to the incident. Firefighters for example will generally put on their bunker equipment before leaving for the incident. We do not understand the context of the question. OSHA apparently believes that emergency responders do not prepare for an incident until they get to the site?

(1)-3. OSHA is seeking input on whether it should also require that patients be restrained during transport to prevent an unrestrained patient from being thrown into a team member or responder in the event of a vehicle collision or an evasive driving maneuver.

ASSP: NFPA appears to have already addressed this issue:



- *NFPA 1500 (6)(2)(5) – Drivers shall not move fire apparatus until all persons on the vehicle are seated and secured with seatbelts in approved riding positions, other than as specifically allowed in this chapter (there are no exemption provided anywhere in the chapter).*
- *NFPA 1500 (6)(3)(2) – Seat belts shall not be released or loosened for any purpose while the vehicle is in motion, including the donning of respiratory protection equipment or protective clothing.*
- *NFPA 1451 (8)(2)(7) – Drivers/Operators shall not move fire department vehicles until all persons on the vehicle are seated and secured with seat belts in approved riding positions, other than as specifically allowed in (8)(3)(3) (which addresses patient care in an ambulance).*

We did see an article OSHA may wish to review on this issue:

<https://www.emergencyvehicleresponse.com/wear-your-seatbelts-from-drive-to-survive/>

(o)-1. OSHA is seeking input about WERE and ESO current use of an IMS, whether the NIMS and NRF were used as guidance for the IMS, and if there are any concerns with being compatible with NIMS.

ASSP: We did not get significant comments on this issue. We defer to the fire protection groups for their insights on this issue.

(o)-2. OSHA is seeking input on which aspects of an IMS are the most effective and the least effective in protecting the safety and health of team members and responders. Commenters should explain how and why certain IMS components are or are not effective.

ASSP: We did not get significant comments on this issue. We defer to the fire protection groups for their insights on this issue.

(p)-1. OSHA is seeking stakeholder input on current practices for identifying and communicating the various control zone boundaries. What marking methods are used? How are they communicated to team members and responders? Do the marking methods help or hinder on-scene operations?





ASSP: Control zones are normally identified as hot, warm and cold zones. These zones are established by Incident Command on any incident requiring them. If/as necessary, identification markers are deployed to clearly identify boundaries. We interpreted to mean the rest of the question focuses on what devices/systems are used to define the control zones and how are responders informed of the boundaries. Our members commented that marking of boundaries may impact responder access/exit (i.e., physical barriers).

(q)-1. OSHA seeks input on whether the agency should include requirements for Standard Operating Procedures (SOPs) regarding protections against workplace violence for team members and responders, and for any data or documentation to support or refute potential requirements. OSHA notes that its regulatory agenda includes a separate rulemaking addressing workplace violence against health care workers. While OSHA has not published a proposed rule in that rulemaking, OSHA welcomes comments on whether violence against emergency responders should be addressed in a potential Emergency Response final rule in addition to that Workplace Violence rulemaking, instead of in that rulemaking, or primarily in that other rulemaking.

ASSP: We recommend that OSHA review our ANSI Registered Technical Report:

[ASSP TR-Z590.5-2019 Technical Report: How to Develop and Implement An Active Shooter/Armed Assailant Plan](#)

Scope: This technical report provides guidance for plan development for various workplaces, such as manufacturing facilities, educational and healthcare institutions, sports and entertainment events and religious gatherings on the subject of an active shooter/armed assailant attack.

Additional information on this technical report is available at:

<https://www.assp.org/standards/standards-topics/active-shooter-technical-report>

(r)-1. OSHA is considering adding a requirement to permit team members, responders, and their representative to be involved in the review and evaluation of the relevant plans as part of the Post-Incident Analysis and would like stakeholder input on whether to add this requirement.



ASSP: Our experience indicates that this practice is already implemented by most organizations doing a post-incident analysis. This feedback is based on insight from significant numbers of ASSP members. We note this is the hot wash (after action assessment of the response). There needs to be a hot wash by participating responders. Practically, everyone cannot physically participate in the hot wash (depending on the complexity of the incident, location, availability, schedule, etc...). Representatives from each group could gather input to present at the hot wash and results can be cascaded back to everyone. It would be hard to include this practice in a rule regarding who is included, all, some, etc...

D. Additional Issues

I. Aligned Organizations

The scope of the proposed rule focuses on employers whose employees respond to emergency incidents to mitigate the incidents. OSHA believes that some employees of aligned employers face similar hazards to those who mitigate incidents. For instance, while some jurisdictions have their own fire investigators as part of the fire department, many more depend on State Fire Marshal's office employees to respond to incident scenes to conduct fire investigations. However, these agencies may not provide a firefighting service. Similarly, many jurisdictions have instructors and training facilities directly within the emergency service organization. However, many more depend on other organizations for training such private entities or State-run training centers that do not perform incident mitigation. Nonetheless, these employees face similar hazards while providing training such as exposure to combustion products, and technical rescue scenarios such as confined spaces, trenches, high angle rope rescue, and swift water. OSHA seeks input and supporting arguments on whether these types of aligned employers should be included within the scope of this rulemaking.

ASSP: We recommend “no” that this level of expansion is not needed. Including these additional workers appears to be going outside the accepted scope of the rule. Our suggestion is that OSHA finalize this rule and then consider expansion in the future for revision when initiated.



II. Portable Fire Extinguishers

OSHA's current standard, 29 CFR 1910.157, Portable Fire Extinguishers, is based on the 1978 edition of NFPA 10, Standard for Portable Fire Extinguisher, and was last updated more than 20 years ago. OSHA's current standard does not include Class K extinguishers or wet chemical agents. Because Class K extinguishers are provided by employers, and the proposed rule would require employers to provide training for team members and responders on all portable fire extinguishers in the workplace, OSHA is proposing to update the standard to include Class K portable extinguishers and wet chemical agents. OSHA is seeking stakeholder input and data regarding whether the agency should consider updating the standard to improve consistency with a version of the national consensus standard, NFPA 10, Standard for Portable Fire Extinguishers, that is current when the final rule is being developed.

ASSP: We suggest this issue be deferred and addressed by the existing NFPA Standards. If OSHA sees areas in need of improvement, the agency should submit suggestions to the applicable committee for consideration.

III. Heat

OSHA is in the preliminary stages of developing a proposed rule for Heat Illness Prevention in Outdoor and Indoor Work Settings (for additional information, see <https://www.osha.gov/heat-exposure/rulemaking>). OSHA recognizes that emergency response workers must perform their duties regardless of the outdoor environmental conditions. However, some activities, such as exercising for physical fitness and vocational training could be modified based on external temperatures. OSHA is seeking stakeholder input and supporting documentation on whether it should include requirements for operating in external environments with elevated temperature in situations that are not emergency incidents.

ASSP: ASSP supports a separate OSHA heat standard, and it should be addressed in different standards. A cohesive approach for heat stress is needed. We also suggest that OSHA needs to review the current heat stress standard published by ASSP. We understand it applies to construction and demolition operations, but it would be of value to OSHA when reviewing heat hazards and exposures with outdoor environments.





[ANSI/ASSP A10.50-2024 Standard for Heat Stress Management In Construction and Demolition Operations](#)

Scope: The purpose of this standard is to reduce the risk to workers of adverse occupational health effects from heat stress due to heat exposures in construction and demolition operations.

As noted, if OSHA needs to review this standard please let us know and a copy will be provided.

Some additional background information:

[Episode 133: Using the A10.50 Standard to Help Workers Beat the Heat](#)

[ASSP Publishes First Standard on Heat Stress in Construction](#)

ASSP position statement on a heat stress standard:

The American Society of Safety Professionals (ASSP) strives to elevate the safety profession and the individuals who choose it. We set the occupational safety and health community's standards for excellence and ethics. ASSP strives to uphold and elevate the value of the safety profession through innovation and thought leadership, and supports the development and dissemination of objective, data-driven solutions based safety and health practices.

On Sept. 20, 2021, the Biden Administration announced the U.S. Occupational Safety and Health Administration (OSHA) will take the following actions to address extreme heat exposure:

- To combat the hazards associated with extreme heat exposure – both indoors and outdoors – the White House today announced enhanced and expanded efforts the U.S. Department of Labor is taking to address heat-related illnesses.*





- *To emphasize its concern and take necessary action, OSHA is implementing an [enforcement initiative](#) on heat-related hazards, developing a [National Emphasis Program](#) on heat inspections, and launching a rulemaking process to develop a workplace heat standard. In addition, the agency is forming a [National Advisory Committee on Occupational Safety and Health Heat Injury and Illness Prevention Work Group](#) to provide better understanding of challenges and to identify and share best practices to protect workers.*

To address these initiatives, ASSP takes the following position:

- *ASSP supports public and private sector initiatives intended to prevent occupational injuries, illnesses and fatalities.*
- *We support public policy initiatives backed by good science and sound technology.*
- *Heat stress is a well-known and largely preventable hazard, and ASSP has long supported the development of a standard for heat stress.*
- *Our members stress the need to keep the standard simple from an implementation perspective and encourage OSHA to review the regulatory approaches taken by state-plan states.*
- *ASSP will provide technical comments on the heat stress initiatives, including the national emphasis program, at the time of their release to address any concerns it believes warrant additional review.*
- *ASSP is working with the A10 Committee for Construction and Demolition Operations to create a voluntary national consensus standard on heat stress for construction and demolition operations:*

American Society of Safety Professionals New BSR/ASSP A10.50-201X, Standard for Heat Stress Management in Construction and Demolition Operations (new standard): This standard establishes the minimum requirements for the prevention heat illnesses and management of heat stress hazards and exposures encountered during construction and demolition operations. It establishes procedures for the management of heat stress hazards and the selection and use of appropriate controls and practices to reduce risks presented by heat stress and prevention heat illnesses for construction and demolition environments.





Following release of the details for the OSHA heat initiatives, ASSP will notify and provide relevant resources on the topic to its members and stakeholders.

Conclusion

Please note that ASSP also publishes its well respected and regarded occupational safety and health handbook. There is an extensive chapter on fire dynamics hitting on some of the technical issues addressed in the proposed rule. If OSHA wishes to review the handbook, please let us know. ASSP would be pleased to provide OSHA with a copy.

*ASSP Handbook - Chapter 42
Applied Science and Engineering: Fire Dynamics*

LEARNING OBJECTIVES

- ✓ *Explain the importance of fire dynamics to safety professionals.*
- ✓ *Describe the elements required for fires to occur, the properties of the elements in how they influence ignition and rate of growth, and the chemical mechanism that is required for fires to continue.*
- ✓ *Describe the mechanism of how combustion products affect life and their influence on the ability to self-escape from a fire.*
- ✓ *Illustrate the stages of fire in a compartment, the driving forces of fire growth and spread, and common equations for estimating the severity of a fire.*
- ✓ *Describe how mathematical and computer modeling is used to predict fire growth and behavior.*

We also included our position statement addressing the use of voluntary national consensus standards in the regulatory process.

Of interest, we have spoken with many of our members who work in various industries impacted by this proposed rule. We would be pleased to work with OSHA on messaging to occupational safety and health professionals if/when the rule is finalized and released for implementation.





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Thank you for your time and attention to our comments. If we can be of any assistance in this matter, please let us know.

Respectfully Submitted,

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2023-24 ASSP President

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**AMERICAN SOCIETY OF
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AMERICAN SOCIETY OF SAFETY PROFESSIONALS

POSITION STATEMENT ON THE ROLE OF CONSENSUS STANDARDS AND GOVERNMENTAL REGULATIONS IN OCCUPATIONAL SAFETY AND HEALTH

**Approved by the ASSP Board of Directors
August 25, 1995, Reaffirmed June 2008, and June 2011
June 2018, Reaffirmed With ASSE/ASSP Name Change**





POSITION STATEMENT ON THE ROLE OF CONSENSUS STANDARDS IN OCCUPATIONAL SAFETY AND HEALTH

The utilization of national consensus standards will be of increased importance to this country as the economy of the United States moves towards more of a global perspective. National consensus standards reflect the opinions of the professionals who work at all levels of the public and private sectors in technology development, manufacturing, training, financial analysis, personnel, academia as well as insight from the final end user. This balanced insight enables standards to be crafted in a way which not only benefits and protects users of the standard, but also furthers the interests of the businesses which have been created to meet user demand.

ASSP supports the increased utilization of consensus standards in the formulation of legislation and regulation for occupation safety and health. Governmental agencies such as OSHA, CPSC, NHTSA, etc... should be encouraged to utilize these consensus standards as they provide an efficient/effective alternative to traditional public sector rule making.

Policy Implementation

ASSP advocates initiatives to encourage the utilization of national consensus standards as an effective/efficient option for meeting the demand of increased regulation/legislation in occupational safety and health since:

- National consensus standards have fewer procedural burdens
- The consensus method provides for a balance between competing interests
- The voluntary nature of consensus standards enables users to adapt provisions to meet unusual circumstances.
- Much lower standards development cost are obtained.

(Supporting white paper enclosed)



WHITE PAPER ON THE ROLE OF CONSENSUS STANDARDS AND GOVERNMENTAL REGULATIONS IN OCCUPATIONAL SAFETY AND HEALTH

Preface

The American Society of Safety Professionals acknowledges a responsibility to take an active role in the evolution of national policy with respect to safety and health standards and regulations. At all times, and especially in times of political reform, there is a need for government to receive the counsel of the safety and health community with respect to standards development and promulgation.

As we review over three (3) decades of social legislation and its enforcement under EPA, OSHA, CPSC, etc., Congress and the professional safety and health community are again raising questions as to what the role of occupational safety and health standards and regulation should be. Some legislators have proposed a more comprehensive program of standards and enforcement. Others have maintained that the proper place for standards development and enforcement is within the national consensus standards-setting framework. Others have supported a performance-oriented approach to safety and health standards.

While this paper primarily focuses upon occupation safety and health standards and regulation, the positions set forth here can be applied generically to other regulatory areas. Essentially the uses of national consensus standards in the regulatory process, unless warranted by legislation already in place, should be pursued along the lines suggested in the various venues of this paper.

Introduction

To obtain a legislative compromise one of whose objective was to avoid delays that were inevitable if regulations were developed under the provisions of the Administrative



Procedure Act, the Occupational Safety and Health Act of 1970 required the newly formed Occupational Safety and Health Administration (OSHA) to promulgate safety and health regulations using existing nationally recognized consensus standards. While this action did serve the congressional intent of quickly establishing a set of regulations for OSHA to enforce, it also resulted in the adoption of hundreds of regulations that were of minimum value in protecting workers. Although OSHA has done much to eliminate such nuisance regulations, enforcement of regulations with questionable value in the 1970's resulted in resentment from industry that lingers even today.

Yet another problem in OSHA's rapid adoption of consensus standards as regulations was that advisory provisions of voluntary consensus standards became mandatory provisions of government regulations. In other words, not only was the voluntary standard made into a mandatory regulation, but many advisory provisions that used the word "should" were made into mandatory provisions when OSHA replaced the word "should" with "shall." The result was that some regulations were, as a practical matter, impossible to fully comply with. Many OSHA regulations were changed to address such concerns, but the experience seems to have damaged OSHA's reputation and credibility.

These developments also impacted the conduct of consensus standards committees. Many committees revised standards to clarify the original intent of provisions, more explicitly addressed exceptions to general provisions, narrowed the scope of the standards or otherwise reacted to developments at OSHA. Even today, members of consensus standards committees look beyond conveying general principles and concepts and concern themselves with exceptions to the rule, adverse impact on specific industries, legal implications of standards, and the potential for misinterpretation. Thus, as a result of OSHA and other factors¹, the development and maintenance of consensus standards related to occupational safety and health has become a much more complicated and demanding endeavor.

Given that OSHA regulations now exist and given the cost and complexity of developing and maintaining consensus standards, one may question the value of consensus standards activities. Should consensus standards be withdrawn if they cover areas also covered by OSHA regulations? If so, what would happen if OSHA is eliminated? If no, what value is the consensus standard providing? What role should consensus standards play in occupational safety and health? What functions must be reserved for regulation?





To the above end this paper examines the proper role of consensus standards and government regulation in occupational safety and health. After describing the role of consensus standards to occupational safety and health, this paper concludes with a description of policies of the American Society of Safety Professionals intended to enhance this role.

Discussion

The Value of Consensus Standards Generally

When compared to government regulation, consensus standards have several advantages, including the following:

- fewer procedural burdens,
- consensus method,
- voluntary nature allows users to adapt provisions to meet unusual circumstances,
- much lower development cost.

These advantages lead to authoritative documents that can be quickly developed and modified, appeal to common sense, are flexible in application, and are cost effective when compared to the federal regulatory process.

It is important to note that the concept of consensus and the input of most, if not all, materially interested parties is critical to the consensus system. Care must be exercised in the makeup and organization of consensus committees to assure the integrity of the process. Without these attributes the validity of a consensus standard is suspect.

When Government Regulation is Required

As previously stated, the validity of consensus standards is based on achieving consensus among all materially interested parties. It follows that government regulation is probably necessary when consensus cannot be achieved in the voluntary standards process, or when the voluntary standards process does not receive input and consider the views of all materially interested parties.



Government regulation is also required when a higher level of validity or greater objectivity is required for enforcement. Such may be a watershed issue for industry as OSHA is legislatively and administratively reformed. If industry wants high objectivity (i.e., little or no discretion or interpretation by OSHA compliance officers), then detailed and comprehensive regulations must exist. On the other hand, if industry wants less regulation and greater flexibility, then industry should consider greater application of voluntary standards in enforcement decisions made by OSHA compliance officers using their professional judgment. Given the appeal provisions allowed under OSHA this trade off appears worthwhile.

A potential danger in increased use of consensus standards is that the process will become targeted by special interests. However, viewed another way, increased use, and application of consensus standards by OSHA will motivate increased participation in the consensus process and thereby increase the quality and validity of consensus standard related to occupational safety and health. While the "political" intensity of the process may increase, each party in the process will proceed with the understanding that (1) consensus does not require unanimity, and (2) failure to reach consensus may result in federal regulation.

The Value of Consensus Standards in Areas Addressed by Government Regulations

A practical concern to resource-limited standards developers is the extent to which support should be continued for consensus standards in areas addressed by government regulation. Consensus standards related to safety and health are perceived as less acceptable when OSHA regulations address the same issue, but nevertheless provide the following benefits:

- consensus standards can provide a useful "how to" supplement to OSHA regulations,
- consensus standards can influence revisions to OSHA regulations,
- unlike OSHA, consensus standards can address off-the-job safety and health issue,
- consensus standards address new issues and incorporate updated scientific information quickly while OSHA proceeds with its rulemaking process,



- consensus standards can provide a valuable reference for safety and health evaluations in cases where OSHA regulations have become outdated.

The Relationship Between OSHA Regulations and Consensus Standards

What the preceding discussion suggests is that a complementary relationship should exist between OSHA regulations and consensus standards. As a matter of policy, OSHA should take advantage of valid consensus standards and use them in enforcement, mindful of the fact that consensus standards are not written to address every foreseeable circumstance. OSHA will spend less money developing regulations, and armed with common sense, consensus standards, and reasonable discretion, OSHA compliance officers can do their job more effectively. For the consensus standards developer, OSHA regulation can provide an alternative to stalemate when consensus cannot be achieved. In addition, such action is also in accordance with the approved, reaffirmed, and revised Office of Management and Budget Circular A-119 Federal Participation in the Development and Use of Voluntary Standards (See Appendix B). For those almost unresolvable issues of standards setting, the ASSP recommends more use of the negotiated rulemaking option as critical safety and health standards need to be available.

ASSP Supports Consensus Standard Alternatives to Federal Regulation

ASSP encourages support of consensus standards activities and processes as an alternative to government regulation of occupational safety and health whenever conditions permit. When compared to government regulation, consensus standard activities allow for greater participation by ASSP professionals in the development of safety and health practices. Also, since consensus standards do not profess to address every possible situation, ASSP professionals also have greater influence in the application and interpretation of consensus standards than they do with federal regulations.

Implications for OSHA Reform

ASSP encourages support of OSHA reforms that foster the use of consensus standards in enforcement when a standard does not exist, is inadequate, or is obsolete/dated. For safety professionals/practitioners to realize greater opportunities to apply their professional skill





and judgement, consensus standards must, in some sense, be authoritative. Without such authority, safety and health professionals may not have sufficient influence and resources to properly do their jobs. For consensus standards to be authoritative, OSHA must be able to routinely rely on provisions of consensus standards in enforcement.

Since national consensus standards do not contemplate every possible scenario, there exists a need for interpretation of the standards based upon professional judgement. When such standards are used in the regulatory enforcement process, federal/state agencies should rely primarily, although not exclusively, upon the view of those who wrote the standards. Facilitation of agency needs should be provided promptly in a collegial manner.

ASSP's View of Government Regulation

While government regulation appears fundamental to safety/health standardization, it should, nevertheless, be efficient, participative, and centralized. The regulated community will more likely view these characteristics as a value-added process where they are encouraged to provide input. Having regulations developed centrally reduces the need for each jurisdiction to prepare their own standards. Having multiple standards bodies presents many difficulties for the regulated community that has facilities in many jurisdictions.

Standards need to be written for the regulated community to readily understand and implement. If standards were more clearly written, compliance directives would not be needed as an interpretation would be obvious. Standards often appear written more for ease of enforcement or to help the solicitors prevail in legal proceedings. Enabling legislation may be necessary, in this situation, to achieve the desired results.

These regulatory standards often have some requirements which have little to do with achievement of safety and health objectives. Some of this may result from OSHA's approach in writing standards in a one-size-fits-all style. These standards should require only what is necessary to achieve a reasonable reduction in risk. Layers of documentation and written certifications are often extras that add compliance burden with little safety/health accomplishment. If enabling legislation is needed to obtain these results, such action may be necessary.



- Standards, developed by OSHA or any agency, need a user panel review before they are published in final form. Enabling legislation or appropriate regulation may be required to obtain this result.
- Standards covering similar issues in the same Part or across different Parts of OSHA standards should have the same requirements unless the hazards are very different.
- OSHA should have an active process to review standards and update them on a five (5) year cycle after a period of experience in application to harmonize them with the more current consensus standards.
- The standards making/regulatory process should factor in a requirement to allow visits of sites/personnel in the regulated community at any time in the development of a standard to review how issues proposed or being developed for regulation are currently being managed and the costs of managing these issues.

The above features should be put forth or considered as desirable tasks of rule-making when legislators or regulators move toward development of such regulatory standards.

Conclusion

The ASSP supports a complementary relationship between OSHA regulations and consensus standards related to occupational safety and health which uses valid consensus standards enforcement, mindful of the fact that consensus standards are not written to address every foreseeable circumstance. ASSP points out that action of this nature may empower and enhance the professional stature of both ASSP members and OSHA compliance officers. Most importantly, such action will allow for a more efficient and responsive use of occupational safety and health resources thereby improving working conditions.

To further set in place the Society's view of national consensus standards per se Appendix A is provided. This policy position was approved by the Board of Directors on March 5, 1990. In essence the position looks at consensus voluntary standards apart from regulations



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while covering the range of issues involved in effectively participating in the uniquely American system of standards making.





[ANSI/ASSE SH&E Standards Information Center](#)

Question - Equipment Lifespan??

I have recently noticed several references to life expectancy for equipment used in fall protection. Specifically, many references state that equipment should be retired 5 years from date of first use and or manufacture. Does anyone know what this recommendation might be based upon?

+++++

Comments

I have not seen the original Air Force studies from the 1950's, but the claim is that some of this data addressed the five year issue. Take that with a grain of salt though as I have not seen this data. Also, if true, the data is from the 1950's, and a lot has changed in the past 50+ years. A couple of fast points below:

#1. It is pretty common direction from the manufacturers. Here is one example below:

<http://www.millerfallprotection.com/smart-solutions/guide-to-fall-protection/life-expectancy-of-harnesses-and-lanyards>

#2. Of interest is that this is also in the current version of the ANSI/ASSE A10.32.2004 Standard (Fall Protection Systems for Construction and Demolition Operations). The specific language is below:

* The service life of fall protection equipment manufactured of synthetic fiber shall be 5 years unless otherwise specified by the manufacturer.

E1.4.4 There is no guarantee that 5 years is the actual service life as it is dependent on diverse factors which must be accounted for.

You have been at some of the Z359 Meetings where this issue has been widely discussed. Right now the Z359 Standards pretty much say inspection before usage and replace any



questionable equipment.

Of interest is that A10.32 is in a state of revision. Dan Paine is the subgroup chair for A10.32. As of now they have taken the service years requirement out of the draft/proposed revision in favor of the Z359 approach. He is on this group also and might have a comment to add. Please note that the 2012 version removed any language on equipment lifespan and has went with the same approach as Z359.

There is not a service life requirement in the original A10.14 Fall Protection Standard.

Below is the URL to the A10.32 Standard. It is the sales page, but if you scroll down after opening there are also some sights with additional background information on the standard.

+++++

So, it sounds like the five year thing might be something we keep perpetuating by simply copying / repeating it from one place to another? As you note, a lot has changed in the last 50 years! The only solid reference I have been able to find thus far is a technical bulletin from DuPont that estimates 10 years for nylon. Any additional reference most welcome!

+++++

Thanks - we will have to keep an eye open on this one. I know you folks on Z359 have had interest in this. Some of the other Z359 Cats are on this group and they might have some referrals on this also?

+++++

It is interesting that the Miller uses the five years since first use. I have found many of harnesses that were ten years old and still in the manufacturer's packing material. As an alternate to this, below is a link to DBI's material:

[http://media.capitalsafety.com/TechnicalBulletins/USA/Miscellaneous%20\(MISC\)/MISC](http://media.capitalsafety.com/TechnicalBulletins/USA/Miscellaneous%20(MISC)/MISC)



[002.pdf](#)

When (Murdock Webbing gave a session on webbing a few meetings ago, I thought this 5 year thing was debunked. Although his session raised a lot of questions in my mind of inspection factors that are not clearly defined and visually observed, I understood him to say that the five year requirement is not needed.

+++++

I wish the five year thing would go away as well. I have found fall protection equipment, harness and lanyards used in construction almost everyday only last about 2-3 years at best on average. Therefore the five years gives people a false sense that they can use it for that long without concern for proper inspection. UV and just day in day out wear and tear takes it's toll on the webbing and the hardware. Labels also do not typically hold up in daily use. Yet, I travel with several training harness/lanyard kits some five to six years old that look almost new and are used in training outside but only for a few hours a week. Proper and daily inspections are the key.

+++++

These time restrictions and other misconceptions are rampant and can be, to Jeff's point, dangerous (like you HAVE to tie off in a scissor lift). I think some companies have safety policies that may state PFA equipment must be removed "when damaged OR at least every 5 years (or 4yrs, 3yrs, etc) and these policies are part of company specific training that is then carried to other locations as "ya gotta do this or that". And to your point Thom, if someone is used to Miller they equate that to ALL equipment.

I always address it in training since I DONT want users to think as long as equipment is "not that old" it is ok or safe to use (and use that as their inspection criteria). If you have ever been on a concrete slip form pour I will tell you those harnesses are junk at the end since they are so caked with concrete after just a couple of weeks. I wont jump on my soapbox since I know i am just preaching (or maybe venting?) to the choir here.

+++++



Keep on preaching! I think it is important that we ensure the choir is all on the same page here. We are all responsible for continuing to perpetuate the problem, and it is going to take all of us singing from the same sheet of music to fix it.

As noted earlier, we are starting to get it removed from standards, but it is still in a lot of manufacturers literature. Here's some examples of what I mean:

Pammenter & Petrie Ltd (Fall Protection and Rescue products - webbing/rope) says "5 years in use" and "Product may be stored (as per storage guidance) for up to 2 years prior to first use in the original packaging, still then giving 5 years potential use."

RidgeGear Ltd (Harnesses and lanyards) says "5 years from date of first use" and "No harness should be used where the manufacture date is greater than 10 years"

SALA (Harnesses, Lanyards and Fall Arrest) says "5 years from date of first use and or manufacture" and "no harness should be used where the manufacture date is greater than 5 years"

Willens Ltd (Harnesses and Lanyards) says "5 years from the date of first use and or manufacture" and "No harness should be used where the manufacture date is greater than 5 years"

Miller Webbing Products - Bacou Dalloz (Webbing Products) says "Maximum 5 years working life from date of first use" and "Items must be taken out of service within 10 years of date of manufacture"

Spanset (UK) Ltd says "All products should be destroyed after 5 years from date of manufacture even if never used"

Tractel Ltd says even if never used "Product life = 1st use + 5 years" and "Shelf life up to 10 years in original packaging" and "For products that are left out doors for long periods should have life reduced by 1 year"

As standards writers we keep putting it in documents because we see it in manufacturers instructions; as manufacturers we keep putting it in instructions because we see it in





standards; and the problem keeps on hanging around!!

I don't hear much justification for the five years, and I do hear an emphasis on inspection practices and procedures, so I think we are all on the same page. Thanks so much to all of you for your insights!

You are right. Inspection plays just as an important part as any time restraints. That's just plain good sence.

+++++

I have done fall protection training and part of that training includes inspection of the equipment. As an exercise we have everyone attending bring their fall protection equipment to the class and we inspect it together. It never fails that we end up throwing out about half of the equipment brought into the class. Number one problem is missing our illegible labels, and second are snap hooks that do not lock or stick open, Right behind those top two problems are cuts, burns and chemical damage. Equipment age of what we throw out varies from 3 months old to 2 years old. I prep my client to this before the class to make sure they have replacement equipment in site. Another note about rope grabs on lifelines. I find an alarming number of users who put them on upside down, yikes. Lifelines pose another problem with daily inspections, How do you inspect 20, 30, 40 stories of lifeline? One way is "constantly" while using it.

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Well, I can say we have a group of very astute, and confident writers/readers here. I am a manufacturer, marketer, and expert on fall protection. I can tell you what I know, and will always tell you what I believe. 1) The Airforce didn't have any info in it of substance about longevity. 2) The older harnesses and safety belts (from 1970's on) never had anything about the lifespan on them or really in the literature. 3) The prevalent and applicable information about longevity, has always been the same - inspect and take from





service whenever the material exhibits signs of problems - severe cuts, burns, deterioration from chemical or physical hazards/contamination, excessive wear, broken strands, exposed inner strands, and broken stitching. Of all of these, the one or two most likely to exhibit a "wear" indicator that is based on "longevity", would be the deterioration and broken stitching. That is that ozone, UV (sunlight, welding and cutting, and fluorescents (to some extent), acidic environments, (including acid rain) and acid gasses like ammonia and chlorine, (including bleaches), most of which would cause a weakening probably discoloration (bleaching) and likely cause the thinner threads to break and fray. Now all of this can be subject to hundreds of variables, if not an exponential factor of that by matrixing the variables. (What if you work three days in the desert sun, leave your harness out on the top of a hot gang box for two days, work for two weeks in a chlorine plant shut down, and then drop it in a swimming pool, after you've washed it with Oxydol, and Tide with color safe bleach?) Now add a few days in a hot gang box with a leaky can of polychlorinated hydrocarbon solvent. And, you can confuse and compound the problem - (or the delirious "what if?" games) (and maybe its all about the delirious "what if?" games PLAYERS that keep compounding and confusing the issues in fall protection) - by asking whether the material or the threads are both made of nylon (what generation of Nylon - gotcha!), or polyester, or polypropylene, or Kevlar, or any of a half dozen other synthetics, and combination of synthetics, and generations of synthetics. Whew!!!

Well what does all that tell us - exactly nothing!. We are back to number three (3) above. And that's where most in this thread seem to have concluded we are. Congratulations to all of you. We have been there since beginning (even with hemp and cotton materials before synthetics!), and we are still there. There is NO MANUFACTURER THAT CAN usurp the intellect and the responsibility of the competent person on the employer's jobsites. None can question the input from the employers qualified person, (if he is in fact qualified) that properly takes into account all that we know, and adds what he/she knows about the exposure that the specific harnesses and lanyards have undergone. None of us manufacturers, can give you the answers that you seek. A 5 year old harness or lanyard, kept clean and dry, rarely used, stored in cool and dark place, never contaminated, and inspected before use CAN be many times better and ready to serve as designed, than a poorly kept 1 month old harness or lanyard, or one that has been improperly stored, exposed to hazards, or deleterious effects of harsh jobsites and occupations. We (the industry makers and those that speak for the industry, and those that interpret for the





industry of manufacturers) used to say 5 years from manufacture, and astute buyers told us that they weren't paying for anything that was on the shelf for more than a month or so, as they'd be getting short changed. That changed our stance to a date certain, from the time of first use, but that begs the question of whether 3 years of harsh use is okay? (Answer: no it won't likely last through that). (see next post)

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Or... is 10 years of a infrequently used, well stored, and never exposed lanyard or harness always a "violation" or a poor safety practice, or an indicator of a weakened and worthless harness or lanyard. (Answer: it may be against the 'recommendation' of a particular manufacturer, but it isn't a 'violation' nor is it necessarily a hazard, or a poor practice. Most certainly it is NOT a measure of a weakened or worthless harness or lanyard. We are back to number three in the previous post/thread, I wrote.

So, the hard part, now. Where do these dates and limitations come from. For anyone that has ever seen a presentation by me, an OSHA training institute class (211) or Fall Protection or Steel Erection, you'll recognize that I am commonly found saying the following. All manufacturers have a paradoxical set of problems. They must exist in an environment of litigation and suspicion, and of strict liability - which means the actions of the plaintiff aren't even subject to review in a court case. The manufacturer's of America must endure litigation where there only defense is warnings and labels, and instructions, and common law, and specific laws that mandate behaviors. For instance its illegal to drag race on public streets, so car manufacturers don't have to warn about drag racing a family sedan, or the hazards associated with it. It is NOT illegal to pick up a lawn mower and try to trim a hedge, so lawn mower companies have to warn about putting your hands anywhere near the mower bed, and when that didn't work, they had to make them with dead man switches that shut off the mower when your hands aren't on the handle, compressing the switch mechanisms. Similarly, with fall protection, the court cases that were successful even in light of misuse or abuse or lack of training, , were commonly successful because labels were judged to be aged out, unratable, unclear, or labels or instructions did not warn that there was a life expectancy, or that the device might not last into the next decade or two (where laws and new knowledge do play a role in the minimum legal expectation of users and plaintiffs (and the juries) and standards of care (by the user, employers, and the manufacturers). The instructions' clarity, and





availability, and the assurances that same gets into the hands of the employer - that has the non-delegable job of making sure that his employees have the information are the way manufacturers have to avoid the spurious and unjust law suits, and an expiration date is just a good way to drive all that home. Issues of warranty, fitness for a purpose, guarantees, and implied versions of the same, are all intertwined in this. And, as a non-lawyer, I can tell you from an expert witness's point of view but a lawyer might be best to run that particular thread.

Suffice it to say, manufacturers develop strategies to compel users to pay attention and the dates evolved from that. The reason this is the hardest part, is because I don't know or recall, or maybe ever knew when we (the fall protection industry) started using dates, who was first, or what particular reason was ever given. It could have, like most things fall protection, started in Europe. Its all over the map, some conservative companies state it emphatically - others less so. Some give 5 years on harnesses, but three years on lanyards (what if they are sewn together?). Others limit life on both.

The fact that so many people have been taking it as law, mandates, or an absolute is testimony to the lack of thinking and rational and appropriate questioning that is going on in safety these days. No doubt the label can get you in trouble if someone tells you are doing wrong by using an expired device - especially if he/she is your contractual superior. But it may not make sense to think that way. My advice: Always, use your judgement and expert observations to retire equipment when worn out, weakened, contaminated, or questionable. Dates are minimal guidance.

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A last word from me on this: I caution you to remember the following: NO ONE should make a manufacturer's warning or suggestion the same as a LAW. OSHA will alternately use the manufacturer's guidance as is it was some great wisdom, or will cast it aside sometimes, on a case by case basis. It cannot be law, nor carry the strength of law. Qualified and Competent persons are the deciders of the fate of the equipment on site, in lieu of any other physical indicator, tests, or mandates in a law. Otherwise our constitution has been abrogated to a commercial interest. Neither OSHA (as our government of the people) nor can we, as employers, and competent and qualified persons, allow a commercial interest, with other corporate, marketing, profit and loss, risk management, liability, and public policy decisions determining what they say and do, (in addition to their obvious interest in consumer and customer safety) to rule over our





jobs, our companies, and our employees' safety.

OSHA will NEVER (or should never) be able to use a manufacturer's information except as a guidance, unless they incorporate that guidance specifically into a law that is properly promulgated and goes through the public policy, public comments, and public impact reviews that public law is supposed to . Manufacturer's should never be expected to be the end-all, or know all. Their job is to tell you what the equipment has been made to, and tested to, and intended for a particular use, and their recommendations. They should follow good practices, standards, and their own innovation and marketing sense. Buyers should do the same. Most employers know way more about their needs than most manufacturer's and certainly most sales people.

I will tell you about two stories -appropriate for this thread. A manufacturer of retractors (really an importer of retractors from a European country, with its own labels put on), said that retractors could never be used on the flat, from behind the user. NEVER, NEVER, EVER! They were tested to be used from directly above the user. They are NOT intended for use flat, from behind. The buyer told the seller, (manufacturer), that this was most unfortunate, since it wanted to use them to push out their unique flying form system on high rises, they had lost or nearly lost employees, and they had determined that the retractor (one of the first in the USA) was an ideal tool, to let the person guide and push out the form, have the safety on the floor, allow mobility, and use of two hands for balance and support and doing the work, and to save him should he fall off the edge. And, it was most unfortunate that the manufacturer wouldn't agree, since the buyer was interested in buying 330 of the retractors. Shazaamm! The magic words. Suddenly the use of the retractor was alright, and new information made it appropriate. They are still used that way today, and there are some shortcomings, maybe, but compelling reasons to use them that way. And, they save lives, allows progressive, innovative work that in itself cuts exposure and saves money and probably lives too.

I once built a device (platform/manage of sorts) for men to inspect undersides of bridges and engineered it, and attached it to the front of a extensible boom of a crane, made in America. Both OSHA and the company ganged up to make it 'illegal' and a 'violation' to modify a crane, and cited the company, once it was discovered during an inspection. And the crane company had wanted no part of it even though I had approached the crane company for permission, in advance, and they wouldn't grant it. Years later, the crane





company began selling that exact attachment, and even went into the boom lift and under bridge inspection platform businesses. Profit, marketing, opportunity, innovation, and changing risk and industry needs, made the practice worthwhile, while before they were scared and wanted control over the use of their device. Lesson learned, hopefully.

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No manufacturer should testify against its customer, except in an extreme case of abuse or incompetence, and even then, no manufacturer should really want to be in charge of deciding a legal right or wrong, in my opinion. And I think so, especially when its customer had come to them for a solution or approval prior to performing the work. As you probably know, the current interpretations that are loosely taken as a whole, and which is loosely used throughout OSHA, when its convenient, mostly, or when they are pressed - is that you must seek a manufacturers point of view and approval for modifications, but when they won't assist you, you may innovate using proper engineering and guidance from the manufacturers information, and other sources, or calculations. Whenever, something is NOT UNSAFE, neither OSHA nor a manufacturer should spend their time trying to quash the innovation nor the progress of the work. The presence of a law, does not always equate to the presence of a hazard, nor the defacto violation, except in name only. The manufacturer doesn't have a dog in the hunt, it should bow out. They couldn't say it was bad,, just that they don't 'want it done' or 'agree that its okay'. By definition, it was a DeMinimis violation, and should never have had a dime spent by anyone on it. By OSHA;s own rules. (FOM). OSHA didn't have anyone to offset my engineering, and arguments that the process presented hazards that I abated with our development, and our design and thorough contemplation of all the affects on the crane, and extrapolations and/or interpretations of all and any applicable standards and then available commercial equipment, left us with a 'lesser hazard' than all the proposed methods or solutions that OSHA or anyone could name. We have the same problem today, where OSHA will argue that you can't stand on the handrail of a basket for any purpose including to get onto steel for steel erection, even when the fall problem is abated with 100% fall protection. I have had inspectors and other so-called safety pro's insist that a 45 to 55 foot ladder is the only way its allowed. the standard is from the old bucket truck era, and the hazard is abated by choice of methods, when the handrail is no longer working (due to his/her height). OSHA has even, comically, allowed recently that its okay to do so on a scissor lift, but not on a boom lift, simply because that standard doesn't





incorporate the previously quoted section on tops of buckets as a seat or standing place. So, despite logic that the hazard is similarly abated, and the exposure is the same, and the lesser hazard is to do what's right, we still have confusion and not practical safety. See also the interpretation on tie off in basket. Unfortunately the bad actor that wrote all this garbage is gone, (that's fortunate, he was not a good player on the OSHA side), but his legacy lives on, and no one in OSHA, just like I discussed in this thread, few people in manufacturing, has the guts to say what's right, or what's real. OSHA should, but can't, or won't and they need to fix the damage that guy (and others in the same era) did. Its been years and hundreds of thousands of dollars in fines, and delays and misinformation continue to spew. I have personally fought and won a half dozen of these cases, sent up the flagpole by people mystified or mesmerized by myth and illogical rules, that smack of legalistic gerrymandering or posturing, and not of good safety principles or practices.

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OSHA will cite "administrative" standards based on the plain reading of the regulation without regard for exposure, e.g. the lack of a written program for chemicals if there are chemicals in the workplace but no need to document overexposure to anything...

So if the text of a regulation requires mfg approval then that is cited without needing to document a hazard, etc.

I agree 100% with what you said. While at OSHA hearings I see dozens of innovators, businesspeople, and entrepreneurs trying to explain to OSHA why their methods or equipment are safer than the decades-old practices assumed by OSHA in its standards, there are precious few variances granted by OSHA. The increased reliance by OSHA of private industry groups to assist with standards or in vetting its proposed regulations is a step in the right direction, but still far from the ideal case.

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RE: "OSHA will NEVER (or should never) be able to use a manufacturer's information." We have used it in rare case in respects to usages, limitations and warnings. It is just a portion of establishing Employer Knowledge to support a violation.



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Correct me if I am wrong John but if an aerial lift manufacturer for example, says in writing "use my railing for attachment of an EA lanyard/harness", then OSHA would buy this as an override of current OSHA 1926 regs. (Everything else being equal)

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Would that it were true. OSHA has tried hundreds of time to use manufacturer's information to convict an employer for failure to train, failure to have a qualified person, failure to have a competent person (didn't follow mfrs. instructions), or proof that it could have or should have done something that is NOT in a standard, but is in the literature. Wire rope clips - "do not use in life safety aspects". Lanyards - "do not use if burnt, knotted, etc....." Harnesses - "do not use if dirty, faded, worn, exposed - chemicals" Forklift - "do not raise people on the forks at any time", Cranes "do not raise people on the hook at any time" (OSHA even wrote the manufacturer's approval into CC, recently, despite 25-35 years of knowledge that the crane companies don't want us on the hooks, and yet we have a man basket standard since before OSHA, and even IN OSHA. "R". I hope that you, take your own advice, and that will make you a superior CSHO, and if you are a supervisor, or a AAD, AD, or anything higher, I hope you enforce your thinking among your subordinates. Congratulations.

Case in point. and I think we are speaking to this, I am not clear, but I think he is saying "a manufacturer says hook it here, but that results in a tie off point below back level, therefore, it would 'wash' - OSHA says 6' free fall, Mfr says 7.5 foot free fall, and what have we got? But more to the point, Noah Connel wrote a seriously flawed interpretation where I believe he (OSHA) was actually being fooled into writing an interpretation to justify an impossibility defense. (He was previously of the directorate, and has had a long history of poorly thought out interpretations, I am sorry to say), He has written this, and we (my company, and my clients, among others) have argued and cajoled, and ridiculed, and pleaded, and it is still racing around the country, and OSHA is still trying to justify it, instead of simply rescinding it. A common problem where govt. can't admit its ever been wrong. Specifically it was asked if a mfr. said a lanyard couldn't be used on a surface less than 18.5 feet above a next surface, shall I not be able to wear it in a basket. "Answer, NO, you can't wear it (that manufacturer's lanyard in a basket when working less than



18.5 feet above the ground" and later and not during the ascension to a point over 18.5"
This after hundreds it not thousands of people are saved from not only old fixed length
non shock absorbing lanyards in the early days, but more so, or equally the same number
since then. Hundreds and hundreds. Probably someone daily.

Well, I wrote a letter to all my clients and said, yes you CAN wear MY lanyards in your
lifts, at any height! And OSHA insists now that the interp letter says it means ANY
lanyard, and then has made it say even worse, 'well that must mean without shock
absorbers, since they have distance'.. so we now have OSHA giving talks and writing
citations, based on the directorate ABROGATING RULEMAKING TO A
MANUFACTURER. NOTHING SHORT OF THAT... IN my expert opinion. The law
makes it illegal to make a law more strict with an interpretation, and yet they did it, and
the Offices keep doing it. M and R allow for a qualified person and a competent person of
the employer to be the maker of the decisions, and the interp takes it away. OSHA tries to
imagine all the reasons why they should stick with this interp, unstable lifts, hitting the
ground, expansion of shock absorber allows too much travel, etc, etc, etc. Well to begin
with the thing was flawed from the start, because the mfr, included an imaginary 3 foot
safety distance just for good measure that doesn't even apply , so 18' is really 15'.
secondly, the tie off point in virtually all lifts is on the floor, or at worst on the midrail.
The lanyard (6') is used UP going up over the rail (when a man is ejected), and then down
the outside, before the body reaches to floor level. Then at worst, his legs are down.

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If he flopped his legs against the ground while riding around only three feet high, he
COULD break an ankle or perhaps a leg. Probably not, any higher above the ground, he
be starting to shock absorb (the often violent 'crack the whip" energy of a catapult
action), and all things from there on are LESSER than what OSHA is proposing. In order
to stick with mandatory lanyards, they say it must be a tether, and wrongfully call it
positioning, or restraint. (You can't tie off to a back rail with a three foot lanyard which is
what is being interpreted, and then call it restraint. Its only restraint to the front of the
basket, if you get flipped out the back you'd need a 1' or less than 2' lanyard! And the
baskets are 8 10 and 12 feet wide, how can anyone work where its designed to be worked
on? And a non shock absorbing lanyard is going to put the entire force of the catapult into
the body!!! no control whatsoever on how much forces he will take, all under the control





of his speed, the length of boom, how big a hole he drives into or drops into, how big a curb he drops off of, etc. And with a longer lanyard, at least he'd likely be swung out and over and perhaps mercifully UNDER The basket where the energy could be used up with him dangling, but no... OSHA is asking that we keep these non shock absorbing lanyard short enough to whack the body all over the inside and outside of the base and guardrails of the basket. I have seen fatal and especially Grizzley accidents where people have been pinned, racked, and pinched, and slammed against the basket parts - I'd much rather be rocketing out of the basket and getting the energy dissipated as I reached the end of my lanyard, and then my fall to earth or the outside or underneath of the basket would be less severe. Can't anybody see this. And now we have people wearing three lanyards on D rings only made for one - conflict with hook safety and manufacturer's guidelines, where OSHA and so many unthinking safety people are having workers in boom lifts use a 4' fixed length non shock absorbing lanyard, (which is really illegal per the shock absorber MAF rule), until they reach a height of over 18.5' and then switching to the shock absorber over that height, (which requires a disconnect unless you have a third lanyard or more than one hook on an point at once. And to transfer out of a lift (for today lets not debate this part - more controversy) - but to do it, you could be hooking a 4' non SA lanyard to structural, since you are transferring out at a height less than 18'. And what the hell is that? As soon as he gets on the steel or the platform, or whatever, he CAN use his 6' s/a lanyard? Since the interp is really about boom lifts? The genesis of this is likely a confused person writing for help, OR a person trying to fool OSHA into making lanyard illegal on lifts below 18.5 feet. Here again, the manufacturer of that lanyard is not in control of the facts of the exposures, and is adding things to his "advice" that cover his butt, and do NOTHING to help the user's qualified person interpret the law and plan his fall arrest. And OSHA should never, I repeat, use the manufacturer's advice, and subordinate a qualified person, or their own law with that. That's not the role of the mfr. and they are not necessarily the experts on the applications of the products. And, they often don't want to be.

If we spent as much energy trying to be safe and meeting the intent of our original 1970 law, as we spend trying to unscrew up mistakes and trying to comply with nuances and words and inferences and false interpretations, and myths started by people without a direct interest in our workers' safety. then we'd all be better professionals, and our workers would be better off. At least, we should all start to question the questions we are





asking and the things we are believing out of hand. 'Does it make sense?' "Does it make my workers safe, safer?" Am I already doing something equivalently safe?

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FYI, now the manufactures of baskets have issued a joint position that they disagree with the OSHA interp, (they say it nicer than that), and its because its causing so many problems for them. As I said, I immediately issued a statement from my company (my products manufacturing company) that allows the practice 'outlawed' for the brand of lanyard in the interpretation, but no other lanyard makers have followed suit. Indeed many are happy I think that we are being given many orders for adjustable, short lanyards, mini retractors, and so on. Its a travesty, and the workers know its a joke, and they can't believe they are being told to be bound to the basket, unable to barely move. (what really is the difference with the mini retractors - that OSHA offices have said are okay? none - but some are saying the regular lanyard is outlawed, but the 'mini' retractor is okay?) If anything, the retractor is now down below, not where its tested and really designed for. If worn on the back, the lanyard is self adjusting but hooked low only by a foot or two standing perfectly still, and no difference what so ever once you walk out 5-6 feet, and 'worse' if you walk out to 6' or more, so some people are saying that gets you down to 15.5' when standing still, or go back to the 'restraint' lanyard.... whew..... confusion in the big city!!)

Shame, actually that the directorate won't simply pull the interp. Wrong on so many fronts. Last construction safety pro on staff is gone. Its all lawyers and politicians, and academicians, I think, that are left. They'd do well to promote some CSHOs, most of them (as I have commented so many times before), are so much more savvy about real life than anyone else in the agency.

There are many of these examples. It happens nearly every day, certainly every week to me,,,,, how many total times are people being told the wrong things country wide if one person gets 50 or more a year?

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RE: if an aerial lift manufacturer for example, says in writing "use my railing for attachment of an EA lanyard/harness", then OSHA would buy this as an override of current OSHA 1926 regs. Our aerial lift standards do not specify the anchorages on an A92.5 aerial lift. For example, we see people use a guardrail as an anchorage. In supporting a citation, we would check the manufacture's instruction and see if they discuss where the proper anchorage is for the user. Many times is it not the guardrails and the manufacturer's have clear guidance that is is unsafe.

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The industry has published a Statement of Best Practices on Personal Fall Protection for AWP's. There is not solution that will satisfy OSHA's interpretation letter of Jan. 2009. Short lanyard makes it impossible to work inside of an 8 foot basket. 6' lanyard presents itself with a fall arrest situation going over the railings and possibly hitting a lower level. Best Practice is to produce a JSA for fall hazards and do the best to attempt to address reducing the catapult risk and potential fall arrest. SRL's of max 6' length seems to be the best solution but has its limitations.

See:

http://www.scaffold.org/userfiles/file/BP_PFPSystems_AWPEquipment_Bookmarked_WEB_2_28_11.pdf

I disagree with some comments on this post as OSHA can write General Duty clause citations (and has) based on Recognized Hazards that might be addressed in manufacturer's instructions.

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This has certainly taken a detour from the question Loui had but brings up a great point- Everyone is so concerned about what to use for fall protection (or if it should be used) in aerial lifts (booms and scissors) that nobody talks about any other hazard associated with the machine. Would fall protection have prevented the death in Notre Dame- NO. Did fall protection prevent the death in Philly a few years back? NO. Did fall protection prevent the electrocution in St. Cloud? NO. Did fall protection prevent the death in Kansas City



or Indy? NO. The main issue is a lack of knowledge by the user ie; training is usually a video tape and a card. Ask the typical user how much the lift they are operating weighs and most have no clue. Ask them about ramping, no clue, Ask them about restrictions regarding slope - No Clue. Ask about pre-lift inspection -No clue. But by God they better be tied off!! A person is ejected because the machine boom flexes - driven into a hole, struck by vehicles, structure collapse due to the weight of the machine, driving too fast on rough surfaces, lack of inspection, etc. Or, the scissor lift falls due sloping surfaces, tire falls into a depression/through a cover, wind loads, etc. But is the emphasis on proper instruction regarding these hazards? The new crane standard requires operator certification - consider that a boom lift is like a crane except the "load" is the user in the basket but I don't see a lot of call for aerial lift operator certification - OSHA requires an "authorized" operator - not much teeth in that. Maybe if more attention was placed on the proper operation of the entire machine and not just on fall protection there would be less injuries and fatalities with aerial lifts. One of the problems is there is no injury code specific to aerial lifts (check BLS - show me the "aerial lift" category in CFOI or the annual summary). So OSHA does have a good benchmark that identifies the problem and generate some action. I agree with the issue of tie off points not allowing the operator room to move and also location near top rails allowing ejection - the A92 committee should revisit that issue and mandate standardized anchor point locations but they don't even require standardized control functions so good luck with that. But training needs to be improved and it needs to include more than just fall protection.

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This is the interpretation letter that has several errors. 18.5 feet is not even close to correct as the anchorage point is inside the platform and the boom lift absorbs much of the fall impact. In catapults that I have investigated the energy absorber either did not open at all or opened only 6" to 12". Many COSHO's are citing if the occupants are using standard 6' energy absorbing lanyard.

OSHA's emphasis should be on wearing personal fall protection and preventing the catapult effect FIRST then worry about lanyard length. As Mark points out most AWP users are still not trained or trained properly.

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RTC I believe started the lifespan of fall equipment components before 1990 with 5 years harness and 3 years lanyard, and also one year SRL service. We ran into NASA which bar-coded everything and so provided 7 years for components with periodic Competent Person inspection by NASA or its contractors. The rest of the users were not happy however mostly because the equipment could not be located readily, and even though Rose followed for a while, Sellstrom gave up the concept to make users happier I was told. My original reasons were the then frequent change in standards meant only one cycle was realistic - just think now of the 3600 lbs. gate snaphooks over 220/350 lbs what a change that has been and several lives lost each year due to gate weaknesses at 220 lbs. I would have thought manufacturers would at least want to give some guidance in this area given degradation and the continuing changes e.g. Y-lanyards star fall hazards, climbing device "fall-back", rope grab "drive down" and Y-lanyard remote end pull-apart (10/2005 Compliance Magazine Brisbane Australia fatality. We are finding out things increasingly that some manufacturers never considered. The question is whether a majority of user companies will understand that the margin for error is small and not worth the apparent savings or perpetual lifetime promise when inspection alone will not solve a design hazard.

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Just a point of clarification...Miller Fall Protection does NOT have a 5 year service life. To quote Miller, "The 5 year life expectancy from the date of first use, is a general guideline. Proper adherence to maintenance and inspection criteria may extend the useful life beyond 5 years."

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If you wear a harness/lanyard in Florida everyday you would be lucky to get 2 years of life out of it. Add all the other damage such as burns, chemicals, etc. and good luck getting 5 years. I did a fall protection class for 35 workers and we did an inspection and threw out almost half the equipment, missing labels and snaphooks that did not function properly were major problems. Some were only 6 months old. INSPECTION by a trained competent person is key. Don't want to find out your equipment doesn't work after you fall, do you?



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS

MSHA is citing miners for expired hardhats, 1 year on suspension and 5 years on the shell, anyone have info on Hardhats?

