SPECIAL Report

NATIONAL ROOFING CONTRACTORS ASSOCIATION

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July 26, 1999

On July 14, 1999, the Occupational Safety and Health Administration (OSHA) issued its long-awaited Advanced Notice of Proposed Rulemaking (ANPRM) affecting safety standards for fall protection in the construction industry. The notice is the result of action taken by NRCA and others more than four years ago, when OSHA published a new Standard for Fall Protection in the Construction Industry on Aug. 4, 1994.

BACKGROUND

On Nov. 25, 1986, OSHA issued notice that it was going to revise its standards affecting fall protection in the construction industry. Nine years later, on Aug. 4, 1994, OSHA published a new fall-protection standard. Upon doing so, NRCA members performing mostly residential (steep-slope) roofing work reacted strongly to the impact of the new rule on their businesses. Previously, OSHA's fall-protection standard became effective when the ground-to-eave distance exceeded 16 feet. The 1994 standard changed this requirement to 6 feet. As a result, virtually every home in America was covered by the standard.

Roofing contractors who typically perform work on residential (steep-slope) buildings now were covered by the regulation and felt strongly that it created an unlevel playing field (not every contractor would spend the time and money to comply with the new rule), and the compliance options (guardrails, personal fall-arrest systems and safety nets) were impractical and, in many cases, could create greater safety hazards.

Subsequently, an NRCA task force met with OSHA representatives to discuss the roofing industry's concerns. As a result of the meeting, OSHA published an interim rule that allowed for more reasonable options for most residential (steep-slope) construction.

The Interim Fall Protection Compliance Guidelines for Residential Construction (known as OSHA Instruction STD 3.1) was published on Dec. 8, 1995. STD 3.1 allowed roofing contractors who perform work on residential-type (steep-slope) projects (i.e., those "including work on structures where the working environment, construction materials, methods, and work procedures are essentially the same as those used for building typical single family homes and townhouses") to use roofing slide guards and safety monitors instead of the conventional fall protection options offered in the OSHA standard.

STD 3.1 also stated that these guidelines only are interim because OSHA was going to develop a new fall-protection standard. **In the new ANPRM, OSHA says that it intends to rescind the roofing slide guard and safety monitor options as they relate to residential-type work**

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"unless persuasive evidence is submitted in response to this ANPRM demonstrating that for most residential construction employers complying with the rule is infeasible or presents significant safety hazards." It is, therefore, extremely important that roofing contractors and others assist NRCA in gathering information that will support maintaining the applicability of these fall-protection options.

CURRENT ISSUES

OSHA is asking for comments on 10 specific issues.

Issue 1: "Whether There is a Need for Alternative Procedures for Residential Construction." NRCA intends to provide extensive comments in response to the questions raised by OSHA about this issue. OSHA is asking for comments regarding residential construction work on foundation walls and formwork used to build the walls; installing drywall, insulation, heating/cooling systems, electrical systems, plumbing and carpentry in attics and on roofs; and roofing work (the installation of weatherproofing materials).

OSHA asks the following questions regarding roofing work:

1) Are safety monitors an effective means of preventing falls?

2) What has been the experience of using safety monitors on residential roofs with slopes less than 4 in 12?

3) Is there a reason why slide guards (roof jacks with 2-foot-by-6-foot planks) are infeasible on roofs with slopes of less than 4 in 12?

4) Is there a reason why safety monitors should be allowed instead of slide guards on tile or metal roofs?

5) Are the installation specifications for slide guards appropriate?

6) Are slide guards effective replacements for personal fall protection?

7) Regarding anchor points, OSHA has received a number of comments stating that some residential structures cannot withstand a 5,000-pound load requirement (OSHA's current requirement). However, because there are a number of anchor systems available that claim to meet this requirement, OSHA asks whether there are any technical or other reasons why such roof anchors could not be used for roofing work.

8) It has been suggested to OSHA that liability exists for contractors who leave roof anchors attached to a roof for others' use once a job is completed. OSHA would like more information on this subject.

9) OSHA suggests that strap-type anchors can be left and then easily cut when no longer needed. OSHA asks why it is infeasible to remove these or any other roof anchors and whether there are other such anchors that are designed to be readily removed.

10) OSHA is particularly interested in comments from workers, employers and manufacturers who have studied, used or designed roof anchors for roofing work.

OSHA asks the following questions regarding the definition of residential construction. STD 3.1 defines residential-type projects as those "including work on structures where the working environment, construction materials, methods, and work procedures are essentially the same as those used for building typical single family homes and townhouses."

1) Is this an appropriate definition of residential construction for the purposes of the rule?

2) Does the definition adequately distinguish between projects where conventional fall protection is feasible and those where, for some operations, it is not?

3) Is this a workable definition--can employers readily use it to determine whether their projects are considered residential construction?

4) OSHA asks if it is clear that the definition should apply to stick-framed and brick apartment buildings; stick-framed and single-story commercial malls; and single-story and stick-framed retail structures?

5) OSHA asks if it should define residential construction in terms of the end use of the structure?

6) Also, should the economic scale of a project be a factor in determining the fall-protection options available to contractors?

7) Finally, would it be appropriate for OSHA to allow the use of alternative fall-protection procedures, such as slide guards, on portions of commercial structures that meet the definition of residential construction?

Issue 2: "Whether There is a Need for Alternative Procedures for Precast Concrete Erection"

NRCA does not anticipate submitting comments on this issue.

Issue 3: "Whether there is a Need for Alternative Procedures for Post-frame Construction"

NRCA does not anticipate submitting comments on this issue.

Issue 4: "Whether There is a Need for Alternative Procedures for Vendors Delivering Construction Materials"

NRCA does not anticipate submitting comments on this issue. However, roofing suppliers were successful in persuading OSHA to issue two interpretations that positively impacted their ability to load roofs using alternative fall-protection methods. NRCA is encouraging suppliers to respond to the questions posed in *Issue 4* of the ANPRM.

Issue 5: "Whether There are Alternative Methods for Fall Protection While Climbing Reinforcing Steel (Rebar Walls and Cages)"

NRCA does not anticipate submitting comments on this issue.

Issue 6: "What Criteria Should be Used for Restraint Systems?"

This issue may impact roofing contractors who use restraint systems instead of fall protection. A restraint system typically is made up of a safety belt, D-ring, safety line and an anchor point. A restraint system prevents a wearer from reaching a fall hazard, thereby obviating the need for fall protection and the requirements of the standard. There are situations on roofing projects where this is feasible and, as a result, OSHA asks the following questions:

1) Should OSHA adopt separate requirements for restraint systems (currently not regulated)?

2) What are the maximum loads expected to be imposed on a system designed to restrain an employee from stepping past an edge?

3) What are the appropriate strength requirements for restraint-system anchors and other components?

4) Is there a need for the requirements in Subpart M-Fall Protection for snap hooks and other connecting hardware also to apply to restraint systems?

5) Should components of a restraint system meet the same strength and other criteria as those for personal fall-arrest systems?

6) Does the likelihood exist that restraint-system components would get mixed up with personal fall-arrest system components?

Issue 7: "Whether Strength Requirements for Anchorage Points for Personal Fall-arrest Systems, Positioning Device Systems and Restraint Systems be Changed"

This issue deals with the strength calculations of anchorage points of positioning device systems relative to personal fall-arrest systems. NRCA does not anticipate submitting comments on this issue.

Issue 8: "Whether the Standard's Prompt Rescue Requirements Should be Changed"

This issue deals with the definition of "prompt" and what to do when an employee is working alone in a remote area. NRCA does not anticipate submitting comments on this issue.

Issue 9: "Whether There is a Need for Alternative Procedures for Drilling Shafts"

NRCA does not anticipate submitting comments on this issue.

Issue 10: "Whether Body Belts Incorporated Into Full Body Harnesses Provide Appropriate Employee Protection in a Fall"

OSHA asks if it should revise its definition of a body harness to prohibit harnesses that, in effect, incorporate body belts. Body belts focus the arrested fall's impact directly to the abdomen, compared to a proper harness that distributes the forces more evenly on the body.

NRCA does not anticipate submitting comments on this issue.

OTHER ISSUES

OSHA is *not* seeking comment on a number of other issues that have been raised by members. For example, no comment is invited on the appropriateness of a 6-foot height trigger. In addition, there is a need to readdress the definition of mechanical equipment so that it reflects equipment used on jobs other than built-up roofing work. And there is a need to address the fall-protection steps to be employed when using an all-terrain vehicle on a roof. Members are encouraged to contact NRCA with other issues not mentioned here that may be included in the comments NRCA prepares for OSHA.

CONCLUSION

OSHA asks a number of questions in the NPRM relating mostly to residential-type fall protection. It provides a 60-day comment period ending on Oct. 22. Once OSHA compiles all the comments it receives, it will issue a Notice of Proposed Rulemaking (NRPM). There is no timetable for the publication of the ANPRM; it could take months, or even years, to prepare.

The future NPRM will suggest new language for a new fall-protection standard and again ask for comments from the public. Based on OSHA's track record, it is unlikely that the NPRM will be issued soon. However, NRCA will take full advantage of *this* opportunity to provide OSHA with

information about the roofing industry so that the agency can make informed decisions regarding these regulations.

To be most effective, we need your help. In a few weeks, you will receive a questionnaire from NRCA asking for specific data and answers to the questions posed previously and those regarding your residential-type fall-protection experiences. **It is crucial that NRCA gathers as much information as possible to support maintaining the use of safety monitors and roofing slide guards as fall-protection options during residential-type (steep-slope) roofing work.**

OSHA mentions that there have been advances made in fall-protection equipment that can be used on roofs and wants to know if these products are protecting workers and meeting the current standard. NRCA is interested in learning more, as well.

OSHA stated in its notice that it "intends to rescind [the STD 3.1] directive unless persuasive evidence is submitted in response to this ANPRM ..."

Please contact Tom Shanahan at extension 238 or e-mail tshanahan@nrca.net, or Ken Brown at extension 262 or e-mail kbrown@nrca.net, if you have any questions or comments.

NATIONAL ROOFING CONTRACTORS ASSOCIATION

The voice of professional roofing contractors.

July 26, 1999

Dear Member:

On July 14, 1999, the Occupational Safety and Health Administration (OSHA) issued an advanced notice of proposed rulemaking (ANPRM) affecting its safety standard for fall protection in the construction industry. The ANPRM most likely will initiate years of negotiations that will lead to a new OSHA fall-protection standard.

The ANPRM only addresses part of the OSHA fall-protection rule--it is unclear whether OSHA will accept comments about issues not raised in the ANPRM. NRCA has concerns about the fall-protection standard that go beyond the scope of the ANPRM and is conferring with legal counsel regarding the likelihood of these concerns being addressed.

In the meantime, we wanted to get information about the ANPRM to you as quickly as possible. During the next few weeks NRCA will be constructing a questionnaire that will be mailed to you; please complete and return it as soon as possible. In addition, we ask that you review the enclosed special report and begin preparing answers to the questions. It is vital to the industry that all affected parties respond. OSHA is requesting specific data about your fall-protection experiences.

If you have any questions or comments regarding this Special Report, please contact me or Ken Brown.

Sincerely,
NRCA

Thomas R. Shanahan, CAE
Associate Executive Director,
Education and Risk Management

P.S. Please remember to complete and return the NRCA questionnaire you receive in August.

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