

effective date of the Act, to adopt as OSHA safety and health standards any national consensus standards, and established Federal standards that were issued under other statutes.

Soon after OSHA adopted subpart D, the Agency initiated efforts to revise the standard. In September 1973, OSHA published a proposed revision of subpart D in the **Federal Register** (38 FR 24300, September 6, 1973). In April 1976, however, OSHA withdrew the 1973 proposal (41 FR 17227, April 23, 1976) because, in the Agency's view, it had become outdated and did not reflect current industry practices. Concurrently, OSHA published a notice requesting further information from interested parties about revising Subpart D (41 FR 17102, April 23, 1976). OSHA also conducted several informal public meetings to allow interested parties to present their views on issues related to subpart D. Based on the comments submitted in response to the notice and the public meetings, OSHA determined that a more thorough scientific and technical research effort was necessary to obtain objective information needed to develop a revised subpart D. Thereafter, OSHA accumulated a wide variety of technical information and studies from sources such as the National Bureau of Standards (now the National Institute of Standards and Technology) and the American National Standards Institute, which the Agency used to develop the proposed revisions to subparts D and I.

On April 10, 1990, OSHA published proposals for revising the standards for subparts D (55 FR 13360) and I (55 FR 13423). The two proposals were published together because of the interdependent nature of the hazards and working conditions they address. Proposed subpart D included, among other things, revised provisions for the use of personal fall protection systems while proposed subpart I added specific design and performance criteria that various personal fall protection systems, such as body belts and harnesses, would have to meet. OSHA received 788 comments on proposed subpart D and 56 on proposed subpart I during the comment period, including several requests for an informal public hearing.

On July 18, 1990, OSHA extended the comment period for written comments on the proposed standards until August 22, 1990, and scheduled an informal public hearing (55 FR 29224).

The informal public hearing was held on September 11–14, and 17–18, 1990, in Washington, DC. Fifty-one parties presented testimony, and fifty-nine post-hearing comments were received through December 1990.

The record was closed and certified on April 20, 1992.

A. Proposed Revisions of Subpart D

The proposed rule for subpart D updated many requirements in the existing standards and proposed changes to consolidate and simplify requirements and to eliminate ambiguities and redundancies. OSHA also proposed to add a number of provisions that were not addressed in the existing standards. For example, the proposal would have added provisions allowing employers to use alternative means to protect employees from fall hazards (e.g., designated areas, personal fall protection equipment, safety nets) when guardrails and physical barriers are not feasible. The proposal also added provisions addressing walking and working surfaces such as step bolts, manhole steps and industrial truck platforms. In addition, OSHA proposed that the revised requirements would apply only prospectively, that is, the proposal would allow workplaces and equipment meeting existing subpart D requirements to be "grandfathered in" and limited application of the revised requirements to new installations and renovations.

B. Proposed Revisions of Subpart I

As noted above, subpart I contains general requirements to provide PPE as well as use, design and performance requirements for various types of PPE. Subpart I, however, currently does not contain specific design or performance requirements for personal fall protection systems.

OSHA proposed to add provisions to subpart I specifying the strength and performance requirements that all personal fall protection systems would have to meet whenever their use was required by a part 1910 standard. The proposal included design and performance criteria for several types of personal fall protection systems, including lifelines, lanyards, body belts and harnesses, work positioning systems (called "positioning device systems" in 1926 subpart M, Fall Protection in the Construction Industry), travel restricting systems and climbing device systems. In addition, OSHA proposed to add a non-mandatory appendix (Appendix C) to provide a number of test methods and procedures that employers and manufacturers could use to determine whether their systems were in compliance with the proposed design and performance requirements for fall protection systems. The primary purpose of the design criteria and test methods was to ensure that employers would use fall protection systems that

are strong enough to provide the necessary fall protection, but that do not stop falls with a level of force that could exceed human injury tolerance and injure employees.

Other OSHA standards covering specific types of workplaces and equipment in general industry currently include provisions that require employers to provide personal fall protection systems (e.g. § 1910.66, Powered platforms for building maintenance; § 1910.67, Vehicle-mounted elevated and rotating work platforms; § 1910.261, Pulp, paper and paperboard mills; § 1910.268, Telecommunications). However, only § 1910.66 of the above standards includes requirements on the design and performance criteria for personal fall protection systems. The criteria in § 1910.66 only apply to personal fall protection systems required within that standard.

Two standards do contain criteria for fall protection equipment. The fall protection standards for the construction industry (subpart M of 29 CFR part 1926), finalized in 1994 (59 FR 40672, August 9, 1994), and the personal fall protection requirements for shipyard employment (29 CFR 1915.159), issued in 1996 (61 FR 26322, May 24, 1996), have design and performance criteria that are similar to those in proposed subpart I. OSHA also notes that both of these standards prohibit the use of body belts for fall arrest. OSHA will also review comments and information received in those rulemakings in determining how to proceed with the rulemakings on Walking and Working Surfaces and Personal Protective Equipment (Fall Protection Systems).

III. Need for Revisions to Subparts D and I

A review of the information, data and comments in the rulemaking record for subparts D and I as well as information OSHA has received since then, indicate that OSHA does need to revise the requirements in these subparts to address the significant hazards of slips, trips and falls to employees in general industry. Data in the record, as well as data received since the record closed in 1992, show that a significant number of accidents and fatalities in general industry are caused by slip, trip and fall hazards. For example, a 1982 study by the Bureau of Labor Statistics (BLS) showed that during a four-month period 938 employees were injured when they fell on stairs (Docket S-041; Ex. 2-37). The study was based on a review of workers' compensation data from 24 states. OSHA believes that the injury