

31. If OSHA were to eliminate the provision on hierarchy of fall protection controls, would this significantly affect the costs of complying with the proposed standard? Please provide estimates of reduction in costs to your establishment and/or industry and an explanation of how those costs were derived.

32. Please describe any changes to your fall protection program that your establishment and/or industry have implemented in the past 10 years. How many of or what percentage of employees have been affected by those changes? What was the impetus for those changes? Please describe any safety, technological, economic and potential regulatory factors that were involved in implementing those changes. For example, did any of the fall protection provisions proposed by OSHA for subparts D and I precipitate any changes to fall protection programs in your establishment and/or industry?

5. Scaffolds and Controlled Descent Devices

Existing subpart D addresses 20 different types of scaffolds, ranging from wood pole scaffolds to float scaffolds (§ 1910.28). Because many of these scaffolds are not typically used in general industry, the proposal for subpart D specifically addressed only the four types of scaffolds most commonly used:

- Two-point adjustable suspension scaffolds (swing stages) (§ 1910.30(d), 55 FR 13405);
- Single-point adjustable suspension scaffolds (§ 1910.30(e), 55 FR 13406);
- Mobile manually propelled scaffolds (§ 1910.30(f), 55 FR 13406); and
- Boatswains' chair (§ 1910.30(g), 55 FR 13406).

In the preamble, OSHA explained that the 16 other types of scaffolds not specifically addressed in subpart D would be required to meet the requirements of the scaffolding standards for the construction industry (29 CFR Part 1926, subpart L) (55 FR 13378). This approach, OSHA said, would ensure coverage of all scaffolds and at the same time simplify subpart D. OSHA also requested comments about whether these other types of scaffolds should be specifically addressed in subpart D.

Several commenters from the window cleaning industry said OSHA should consider controlled descent devices (CDD) to be scaffolds, and to include them in the scaffold section of subpart D (Docket S-041; Ex. 3-45; 3-412; 10-11). A CDD is a suspension-type device that usually supports one employee in

a chair (seat board) and allows the user to descend in a controlled manner and to stop at desired points during the descent. The CDD is a variation of the single-point adjustable suspension scaffold, but generally only operates in a descending direction. Commenters said that CDDs are used in at least 60 percent of all high-rise window-cleaning operations and are not specifically covered in the scaffold standards for the construction industry (Docket S-041; Ex. 3-431).

In a March 12, 1991, memorandum to its Regional Administrators, OSHA stated that employers who use CDDs to perform building cleaning, inspection and maintenance must do so in accordance with the manufacturer's instructions, warnings, and design limitations. In addition, OSHA said it expected employers using CDDs to implement eight specific safety provisions covering the following areas: employee training, inspection of equipment, proper rigging, separate fall arrest systems, installation of lines, rescue, prevention of rope damage and stabilization (Docket S-029; Ex. 1-16-3). These eight provisions also are included in the current national consensus standard, ANSI I-14.1-2001—Window Cleaning Safety (Docket S-029; Ex. 1-13). The ANSI standard also limits the use of CDDs, which it refers to as rope descent systems (RDS), to window cleaning operations performed 300 feet (91 m) or less above grade, unless the windows cannot be safely and practicably accessed by other means such as powered platforms.

OSHA is considering adding provisions specifically addressing CDDs to subpart D. The OSHA memorandum has been in effect for more than a decade and OSHA is not aware of any fatalities involving CDDs when all eight of the safety provisions have been followed. In addition, the inclusion of the eight provisions in the ANSI standard on window cleaning indicates strong industry acceptance of these specific safety precautions.

33. In your establishment and/or industry, to what extent and in what operations are controlled descent devices being used? Please provide a detailed description of the technical, economic and safety factors that are considered in determining whether to deploy them. When controlled descent devices are used in your establishment and/or industry, are the eight safety provisions in the OSHA 1991 memorandum and ANSI I-14.1-201 being followed? If any are not being met, please explain why. What has been the safety experience in your establishment and/or industry using these devices?

34. Are controlled descent devices being used in operations performed more than 300 feet above grade? In what circumstances are controlled descent devices used above that height? Are additional safety measures used when operating at that height? Please explain. What has been the safety experience in your establishment and/or industry using the devices at that height?

35. Should OSHA include specific requirements for the use, installation and maintenance of controlled descent devices in the scaffold section of Subpart D? Please explain.

36. Should OSHA add to subpart D the eight safety provisions on the use of controlled descent devices discussed in the 1991 OSHA memorandum to Regional Administrators and included in ANSI I-14.1-2001? Please explain.

37. Should OSHA limit the use of controlled descent devices to operations performed no higher than 300 feet (91 m) above grade unless access cannot be attained safely and practicably by other means? What additional safety measures are needed for operations performed above 300 feet? Please explain.

38. Would limiting controlled descent devices to 300 feet impose added costs in your establishment and/or industry? If so, please provide estimates of the costs and an explanation of how those costs were derived.

39. How many or what percentage of jobs in your establishment or industry would be affected by such a requirement?

6. Anchors for Suspended Work

Proposed subpart D includes several provisions requiring that scaffolding and personal fall protection systems be secured to structures or buildings to prevent them from swaying or moving suddenly (§ 1910.28(c)(24)(vi), § 1910.28(c)(27)(ii), § 1910.28(d)(3), 55 FR 13405). For example, proposed subpart D requires personal fall protection systems used on single-level scaffolds and the top surface of multi-level scaffolds to be attached to a structure (anchorage point) other than the scaffold or scaffold suspension system (§ 1910.28(c)(27)(ii), 55 FR 13405). However, neither existing nor proposed subpart D address the installation and maintenance of the anchorages themselves on buildings or other structures.

In the hearing notice for proposed subpart D, OSHA requested comment on whether OSHA should add an installation and maintenance provision to subpart D for "all structures where it is reasonably foreseeable that employees will need anchorage points" to attach scaffolds and other equipment (55 FR