

STEEL ERECTION
NEGOTIATED RULEMAKING
ISSUE #4

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The negotiation process provides a vehicle for the resolution of the fall protection issues that have arisen in regard to steel erection. For example, the members of SENRAC will seek consensus as to the height at which fall protection will be required. In addition, the Committee should determine what fall protection measures are appropriate for employees performing steel erection tasks.

BACKGROUND

Steel erection employers have been required to protect their employees from fall hazards through compliance with the provisions of subpart R (§§ 1926.750(b)(1), 1926.750(b)(2) and 1926.752) with supplemental coverage by the generic requirements of part 1926. The incorporation of construction industry standards under section 6(a) of the OSH Act did not clearly indicate the extent to which the generic fall protection requirements (§§ 1926.28(a), 1926.104(d), 1926.105(a) and

1926.500) would apply to steel erection. The result has been confusion, litigation and requests to revise the fall protection provisions in subpart R so that the subpart provides clear and comprehensive direction regarding fall protection for steel erection operations. OSHA attempted to clarify the fall protection requirements for steel erectors by issuing Instruction STD 3-3.1 on July 18, 1983. This Instruction attempted to clarify the fall protection requirements for steel erectors by requiring the use of safety belts to protect employees against falls from heights of ten feet or more. That Instruction was withdrawn and replaced by the memo to the OSHA's Regional Administrators from Jim Stanley, Deputy Assistant Secretary, which represents the current enforcement policy for steel erection of buildings. This should be considered the starting point for developing a provision in subpart R dealing with fall protection.

The Advisory Committee on Construction Safety and Health (ACCSH) has had a longstanding interest in this subject and has expressed its desire that OSHA address the fall protection requirements for steel erection when it revises subpart R.

While there has been much deliberation on the fall protection issue over the years, the negotiation process offers an

unprecedented opportunity to determine what can and must be done to minimize the number of workers killed and injured from falls while engaged in steel erection activities.

REFERENCES

1. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Subpart M - Safety Standards for Fall Protection in the Construction Industry [51 FR 42718, November 25, 1986]. Docket No. S-206, Exhibit Nos: 5, 2-17, 2-45, 2-53, 2-104, and 2-145 (6-2, 6A(4) and (21)).
2. Advisory Committee on Construction Safety and Health, Transcripts of meetings held on April 1, 1987, pp. 153-155, 168, 169, 178-180; August 4, 1987, pp. 60-77, 131-143; September 14, 1989, pp. 43-45; and December 13, 1989, pp. 165-172.
3. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Compliance Programming, OSHA Instruction STD 3-3.1; July 18, 1983.

4. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Construction and Maritime Compliance Assistance, Cancellation of OSHA Instruction STD 3-3.1; Oct. 5, 1992.

5. OSHRC cases: Secretary of Labor v. Williams Enterprises, Inc., May 17, 1989; Secretary of Labor v. Adams Steel Erection, Inc., Sept. 26, 1985; Secretary of Labor v. Adams Steel Erection, Inc.; Secretary of Labor v. The L.E. Myers Company, Jan. 16, 1986;

6. U.S. Court of Appeals for the Third Circuit, secretary of Labor v. Adams Steel Erection, July 5, 1985.

7. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Informal Public Hearing on proposed subpart M, L and X standards; March 23, 1988; pp. 54-94.

8. American National Standards Institute (ANSI) A10.13-1978 and A10.13-1989, "Safety Requirements For Steel Erection".

9. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Draft Notice of Proposed Rulemaking, Standards for Steel and Other Structural Metal Erection; January

25, 1989.

10. ACCSH Workgroup for Subpart R Report, Appendix 3, September 12, 1989.

11. International Association of Bridge Structural and Ornamental Iron Workers (AFL-CIO), letter to Assistant Secretary of Labor Gerard F. Scannell and attachments; June 18, 1990.

12. Memo from Jim Stanley, Deputy Assistant Secretary, to all Regional Administrators regarding Fall Protection in Steel Erection policy; Feb. 22, 1994.