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Tuesday, March 7, 2017
1:30 p.m. to 3:00 p.m. Eastern
12:30 p.m. to 2:00 p.m. Central
10:30 a.m. to 12:00 p.m. Pacific

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March 7, 2017
“It ain’t what you don’t know that gets you in trouble. It’s what you know for sure that just ain’t so.”

Mark Twain
New Rule Impacts

- General Industry
- Also, and specifically,
  - Building management services
  - Utilities
  - Warehousing,
  - Retail
  - Window cleaning,
  - Chimney sweeping, and
  - Outdoor advertising.

New Rule Applies/Addresses...

...all walking-working surfaces...horizontal and vertical...inclusive of:
- floors,
- stairs,
- roofs,
- ladders,
- ramps,
- scaffolds,
- elevated walkways, and
- fall protection systems.
- Also, Rope Decent Systems (RDS)
Key New Rule Dates / Info

- November 18, 2016 – Final Rule Issued / Published in Federal Register
- November 18, 2016 – GAO Receives Final Rule
- January 17, 2017 – Final Rule Effective Date*

- * See Next Slide for Specific Compliance Dates

Specific Subpart D Compliance Dates

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<th>Final Subpart D Section and Requirement</th>
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<td>May 17, 2017</td>
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Rule Highlights

- Flexibility in Fall Protection Means [1910.28(b)]
- Scaffolding – Construction is the new general industry. [1910.27(a)]
- Rope Descent Systems [1910.27(b)]
- Fixed Ladder Fall Protection [1910.28(b)(9)]
- Qualified Climber Phase Out [1910.28(b)(10)]
- Personal Fall Protection System Performance and Use [1910.140]
- Walking-Working Surface Inspections [1910.22(d)]
- Training [1910.30]

Other Standards Affected/Amended by New Rule
(beyond Subpart D)

- Subpart F
  - 1910.66 – Powered platforms for building maintenance
  - 1910.67 – Vehicle-mounted elevating and rotating work platforms
  - 1910.68 – Manlifts
- Subpart I
  - 1910.132 – General [PPE] Requirements
  - 1910.140 – Personal fall protection systems (added)
- Subpart N
  - 1910.178 – Powered Industrial Trucks (Dockboards/bridge plates)
  - 1910.179 – Overhead and gantry cranes.
- Subpart R
  - 1910.261 – Pulp, paper and paperboard mills
  - 1910.262 – Textiles
  - 1910.265 – Sawmills
  - 1910.268 – Telecommunications
  - 1910.269 – Electric power generation, transmission, and distribution
Fall Protection Flexibility

29 CFR § 1910.28 – Duty to have fall protection and falling object protection

1910.28(a) – General Requirements

• Fall Protection Required – Conform to 1910.29
• Personal Fall Protection Systems – Conform to 1910.140
• Exceptions to Section:
  • Portable Ladders
  • Inspecting, investigating or assessing workplace conditions/work (Watch the exception to the exception)
  • Exposed perimeters of entertainment stages and rail-station platforms
  • 1910.66 powered platforms
  • 1910.67 aerial lifts
  • 1910.268 telecommunications
  • 1910.269 electric power generation
1910.28(b)(1)- Protection from Unprotected Sides and Edges

- Trigger Height: ≥ 4 feet from lower level
- Choice of Methods for Fall Protection:
  - Guardrail systems;
  - Safety net systems; or
  - Personal fall protection systems
- Exceptional Cases
  - Residential Roofs
    - 1926.502(k) Fall Protection Plan
    - 1926.503(a) and (c) Training
  - Loading rack/loading dock/teeming platform
    - Work operation where fall protection is infeasible is in process;
    - Access limited to authorized employees; AND
    - Authorized employees are trained.

1910.28(b)(2)- Protection in Hoist Areas

- **Hoist area** means any elevated access opening to a walking-working surface through which equipment or materials are loaded or received.
- Trigger Height: ≥ 4 feet from lower level
- Choice of Methods for Fall Protection:
  - Guardrail systems;
  - Personal Fall Arrest System (PFAS); or
  - Travel Restraint System
- (ii) - When any portion of a guardrail system, gate, or chains is removed, and an employee must lean through or over the edge of the access opening to facilitate hoisting, the employee is protected from falling by a personal fall arrest system.
- (iii)- If grab handles are installed at hoist areas, they meet the requirements of § 1910.29(l).
1910.28(b)(3)- Protection for Holes

- **Hole** means a gap or open space in a floor, roof, horizontal walking-working surface, or similar surface that is at least 2 inches (5 cm) in its least dimension.
- Trigger Height: \( \geq 4 \) feet from lower level
- **Choice of Methods for Fall Protection:**
  - Covers;
  - Guardrail systems;
  - PFAS; or
  - Travel Restraint System
- (ii) Covers or guardrails required for holes less than 4 ft. from lower level.
- (iii) Special Considerations for stairway, ladderway, hatchway/chute floor holes

1910.28(b)(4)- Protection with Dockboards

- **Dockboard** means a portable or fixed device that spans a gap or compensates for a difference in elevation between a loading platform and a transport vehicle. Dockboards include, but are not limited to, bridge plates, dock plates, and dock levelers.
- Trigger Height: \( \geq 4 \) feet from lower level
- **Choice of Methods for Fall Protection:**
  - Guardrail systems; or
  - Handrails.
- **Guardrail/Handrails Not Required When:**
  A. Dockboards used solely for material handling w/ motorized equipment;
  B. Employees are not exposed to fall hazards greater than 10 feet; **AND**
  C. Employees trained in accordance with 1910.30
1910.28(b)(5) - Protection on Runways and Similar Walkways

- *Runway* means an elevated walking-working surface, such as a catwalk, a foot walk along shafting, or an elevated walkway between buildings.
- Trigger Height: > 4 feet from lower level
- Choice of Methods for Fall Protection:
  - Guardrail systems.
- Infeasibility Exception:
  - Applies to having guardrails on BOTH sides of runway, AND Runway is used EXCLUSIVELY for special purpose;
  - Omit guardrail on one side provided that:
    - Runway is at least 18 inches wide
    - Each Employee is provided with and uses PFAS or Travel Restraint System

1910.28(b)(7) - Protection from Openings

- *Opening* means a gap or open space in a wall, partition, vertical walking-working surface, or similar surface that is at least 30 inches (76 cm) high and at least 18 inches (46 cm) wide, through which an employee can fall to a lower level.
- Trigger Heights:
  - Inside bottom edge is less than 39 inches above the walking-working surface
  - AND
  - Outside bottom edge of opening is > 4 feet above lower level
- Options:
  - Guardrail systems;
  - Safety net systems;
  - Travel restraint systems; or PFAS
1910.28(b)(9)- Protection on Fixed Ladders

For fixed ladders that extend > 24 feet above a lower level, employers must ensure:

- PFAS, Ladder Safety System, Cage or Well for fixed ladders installed prior to Nov 19, 2018.
- PFAS or Ladder Safety System for fixed ladders installed on or after Nov 19, 2018.
- Replacements need PFAS or ladder safety system.
- All fixed ladders MUST have PFAS or ladder safety system by Nov. 18, 2036.

More on Fixed Ladders

- Ladders with PFAS / Ladder Safety Systems
- Protection Provided throughout the entire vertical distance;
- Rest platforms provided at max intervals of 150 feet.
- Ladders with Cage/Well
  - Offset from adjacent sections
  - Landing platforms provided max intervals of 50 feet
- Cage/Well can be used in conjunction with PFAS or Ladder Safety System Provided It does Not Interfere
Other 1910.28(b) Matters

- (b)(6) – Dangerous Equipment
- (b)(8) – Repair Pits, service pits, and assembly pits < 10 feet depth
- (b)(10) – Outdoor advertising
- (b)(11) – Stairways (See Table D-2)
- (b)(12) – Scaffolds and Rope Descent Systems
- (b)(13) – Work on sloped roofs
- (b)(14) – Slaughtering facility platforms
- (b)(15) – Walking Working Surfaces NOC

Rope Descent Systems

29 CFR 1910.27(b)
Rope Descent Anchorages: Building Owner Certification

- Building Owner Must Provide Written Certification of:
  - Identification, Testing, Certification and Maintenance of Anchorage
  - Capable of Supporting 5,000 lbs. in any direction for each employee attached
  - Qualified Person Annually Inspects
  - Qualified Person Certification – As Necessary but at least every 10 years
- Employer must obtain certification before employees use anchorage
- Employer must maintain certification for duration of job

Rope Descent System Usage

- Heights > 300 Feet require employer to demonstrate infeasibility
- Descent Systems Used in Accordance with Manufacturer instructions, warning, design limitations or under the direction of a qualified person
- Training w/ 1910.30
- Pre-Shift Inspections
- Proper Rigging and Tiebacks
- Separate Independent PFAS
- All components besides seat boards rated load of 5,000 lb.
- Seat boards 300 lb.
- Prompt rescue provision
- Rope padding/protection
- Stabilization
- No use in inclement weather
- Tools Secured
Personal Fall Protection Systems

29 CFR § 1910.140

Select 1910.29 Definitions

- Competent Person means a person who is capable of identifying existing and predictable hazards in any personal fall protection system or any component of it, as well as in their application and uses with related equipment, and who has authorization to take prompt, corrective action to eliminate the identified hazards.

- Qualified describes a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.
Select 1910.29 Definitions (contd.)

- **Personal fall protection system** means a system (including all components) an employer uses to provide protection from falling or to safely arrest an employee’s fall if one occurs. Examples of personal fall protection systems include personal fall arrest systems, positioning systems, and travel restraint systems.
- **Personal fall arrest system** means a system used to arrest an employee in a fall from a walking-working surface. It consists of a body harness, anchorage, and connector. The means of connection may include a lanyard, deceleration device, lifeline, or a suitable combination of these.

Select 1910.29 Definitions (contd.)

- **Positioning system** (work-positioning system) means a system of equipment and connectors that, when used with a body harness or body belt, allows an employee to be supported on an elevated vertical surface, such as a wall or window sill, and work with both hands free. Positioning systems also are called “positioning system devices” and “work-positioning equipment.”

- **Travel restraint system** means a combination of an anchorage, anchorage connector, lanyard (or other means of connection), and body support that an employer uses to eliminate the possibility of an employee going over the edge of a walking-working surface.
Requirements for Personal Fall Protection Systems

• 22 General Requirements
• PFAS Requirements
  • Five System Performance Criteria
  • Two System Use Criteria
• Body Belts Prohibited as part of PFAS
• Positioning System Requirements
  • Four System Performance Criteria
  • Window Cleaners’ Positioning System
    • 12 System Use Criteria

Inspections

29 CFR § 1910.22(d)
Inspections: Key Points

- The employer must ensure:
- Inspected “regularly and as necessary,”
- Hazardous Conditions are corrected or repaired before an employee uses the walking-working surface again.
- If correction/repair cannot be made immediately, the hazard must be guarded
- If repair involves the structural integrity of the walking-working surface, a qualified person must perform or supervise the correction/repair.

Training

29 CFR § 1910.30
Training Requirements – §1910.30(a)(1)

(a) – “Before any employee is exposed to a fall hazard, the employer must provide training for each employee who uses personal fall protection systems or who is required to be trained as specified elsewhere in this subpart. Employers must ensure employees are trained in the requirements of this paragraph on or before May 17, 2017.”

Training Requirements – §1910.30(a)(2)

“The employer must ensure that each employee is trained by a qualified person.”

§1910.21(b) provides: “Qualified describes a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.”
Training Requirements – §1910.30(a)(3)

• “...employer must train each employee in at least the following topics:
  • (i) The nature of the fall hazards in the work area and how to recognize them;
  • (ii) The procedures to be followed to minimize those hazards;
  • (iii) The correct procedures for installing, inspecting, operating, maintaining, and disassembling the personal fall protection systems that the employee uses; and
  • (iv) The correct use of personal fall protection systems and equipment specified in paragraph (a)(1) of this section, including, but not limited to, proper hook-up, anchoring, and tie-off techniques, and methods of equipment inspection and storage, as specified by the manufacturer.”

Training Requirements – §1910.30(b) – Equipment Hazards

The employer must train each employee...
1) ...on or before May 17, 2017 in the proper care, inspection, storage, and use of equipment covered by this subpart before an employee uses the equipment.
2) ...who uses a dockboard to properly place and secure it to prevent unintentional movement.
3) ...who uses a rope descent system in proper rigging and use of the equipment in accordance with § 1910.27.
4) ...who uses a designated area in the proper set-up and use of the area.
Training Requirements – §1910.30(c) – Retraining

• The employer must retrain an employee when the employer has reason to believe the employee does not have the understanding and skill required by paragraphs (a) and (b) of this section. Situations requiring retraining include, but are not limited to, the following:
  • (1) When changes in the workplace render previous training obsolete or inadequate;
  • (2) When changes in the types of fall protection systems or equipment to be used render previous training obsolete or inadequate; or
  • (3) When inadequacies in an affected employee’s knowledge or use of fall protection systems or equipment indicate that the employee no longer has the requisite understanding or skill necessary to use equipment or perform the job safely.

Training Requirements – §1910.30(d) – Understandable Training

“The employer must provide information and training to each employee in a manner that the employee understands.”
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Key, Strategic Considerations

- Identify *Qualified* Personnel
- Train Employees
- Carefully Document Inspections and Corrective Actions
  - OSHA Inspection Request
  - OSHA Citation Litigation Discovery
  - Prompt, Documented Corrective Action is Key
- Carefully Consider the Best Option When Choosing Fall Protection Means
  - Infeasible v. Inconvenient
  - Plan Ahead During Renovations and Walking-Working Surface Replacements
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Barry Spurlock is an assistant professor at Eastern Kentucky University where he teaches graduate and undergraduate classes on safety management, safety performance measurement, workers’ compensation, safety-related legal classes, and courses on hazard recognition and control. He is also the managing member and attorney for Spurlock Law, PLLC. Prior to his present position in academia, Mr. Spurlock was a full-time attorney where he represented employers in a variety of employment matters involving OSHA, FMLA, ADA, harassment and discrimination.

Mr. Spurlock’s current law practice also includes counseling and training employers on compliance and proactively avoiding litigation and citations. Barry is a board certified safety professional, and before practicing law he worked for over 16 years as an occupational safety and risk management professional in the food, steel and workers’ compensation insurance industries. He has also served as an adjunct faculty member for Indiana University since 2002, where he has developed curricula and taught numerous undergraduate courses in occupational safety management.