



August 23, 2010

OSHA Docket Office
Technical Data Center, Room N-2625
OSHA, Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

**Re: OSHA Proposed Rule for Walking-Working Surfaces and
Personal Protective Equipment (Fall Protection Systems),
Docket ID OSHA-2007-0072**

Dear Sirs:

The International Liquid Terminals Association (ILTA) is pleased to submit comments on the above-referenced rule published in the *Federal Register* on May 24, 2010, 75 *Fed. Reg.* 28862.

ILTA is an international trade association that represents 80 commercial operators of bulk liquid terminals, aboveground storage tank facilities, and pipeline companies located in the United States and 47 other countries. In addition, ILTA includes in its membership more than 300 companies that are suppliers of products and services to the bulk liquid storage industry. ILTA member facilities include deepwater, barge, and pipeline terminals whose bulk liquid commodities are essential to the national and international economies. These terminals interconnect with and provide services to the various modes of bulk liquid transportation: oceangoing tankers, barges, tank trucks, rail cars, and pipelines. The commodities handled include a variety of chemicals, crude oil, petroleum products, renewable fuels, asphalt, animal fats and oils, vegetable oils, molasses, and fertilizers.

ILTA has multiple committees and subcommittees that focus on a variety of issues facing our industry. One of these groups, the Health and Safety Subcommittee, is comprised of health and safety experts employed by ILTA terminal member companies. The subcommittee directly supports one of ILTA's core principles, which is to continually improve the safety of operations at terminals.

As the trade association that represents the terminal industry, ILTA has two main points:

- (1) A separate rulemaking on fall protection from rolling stock and motor vehicles is unwarranted; and
- (2) Travel restraint lines should have sufficient strength to withstand twice the potential impact energy of the design shock load, rather than be required to meet the more severe standard for lines designed to withstand forces resulting from a fall.

1. A Separate Rulemaking on Fall Protection from Rolling Stock and Motor Vehicles is Unwarranted

OSHA requested comments regarding the need for regulations covering fall protection on rolling stock and motor vehicles (75 FR 28867). ILTA has determined that a separate, prescriptive rulemaking to cover falls from rolling stock and commercial motor vehicles would be inappropriate and is unwarranted. ILTA recently conducted an evaluation of existing fall protection practices that have been implemented at terminal facilities located throughout the United States. It found that variations between facilities preclude the practical implementation of a uniform approach to fall protection. Furthermore, and more importantly, existing ILTA terminal member safety performance data indicates that the fall protection measures currently in place for rolling stock and motor vehicles are effective in protecting workers commensurate with the risk.

(a) Variability of Terminal Configurations and Operations

The varying degrees of complexity of terminal operations, the relative age of existing facilities, and the myriad of configurations to facility infrastructure preclude an effective one-size-fits-all regulatory approach to protecting against falls from rolling stock and motor vehicles. Work practices and frequency of exposure to fall hazards at loading and unloading operations also vary across facilities. Accordingly, the terminal industry relies upon the existence of flexible standards that allow companies to choose the most practicable fall protection systems for the unique requirements of each facility.

ILTA terminal members utilize a variety of fall protection equipment and administrative procedures to protect workers from the hazards of falling from railcars, tank trucks and their associated loading and unloading areas. Applicable controls may include any or several of the following measures, among others:

- Platforms and ladders used to access the top of rail cars and tank trucks are equipped with guardrails/stair rails and cages to protect workers from falling during loading/unloading operations.

- Travel restraint systems, retractable life lines and fall arrest systems are installed for use during inspection and cleaning of loading racks, rail cars and tank trucks.
- Protective gear, including hard hats, safety goggles, hearing protection, footwear with defined heels, hydrogen sulfide monitors, and gloves, is required.
- Written procedures detailing inspection protocols, access restrictions, safe climbing procedures, personal protective equipment requirements, and proper use of fall protection equipment are maintained and enforced.
- Workers are trained on site-specific loading/unloading protocols, the use of personal protective equipment and fall protection systems, safe climbing procedures, identification of potential hazards, and inspection practices.
- Staff meetings are conducted periodically with exposed employees and/or contractors to review safety hazards and fall protection practices.
- Information sheets are distributed to contactors (i.e. tank truck drivers) alerting them to potential hazards associated with loading and unloading operations.

(b) Terminal Rolling Stock and Motor Vehicle Safety Performance

ILTA also examined the safety performance of its terminal members in its evaluation of the need for a separate rulemaking to cover falls from rolling stock and motor vehicles. In doing so, ILTA has concluded that existing methods and practices to protect workers from these falls, as discussed above, have proven highly effective in minimizing the number of incidents.

ILTA's 2010 Terminal Member Safety Survey Report¹ data indicated a terminal company average total recordable incident rate (TRIR) of 2.5, as well as an even lower average facility TRIR of 1.8. There were no fatalities. Company workforce sizes varied significantly, with a range between five full time equivalent workers and well over 1,000 employees. The percentage of terminal workers exposed to falls from railcars and tank trucks covers the full range from 1 to 100 percent, depending on facility size, configuration, and operating practices.

A further analysis of the incident data by injury type, where provided, suggests that falls from rolling stock and motor vehicles are infrequent compared to other types of injury and have been fewer in number than falls from walking on smooth surfaces. Of 221 total injuries reported by these participants, 32 of them (15 percent) involved a fall. Of those, only six resulted from a fall from rolling stock or commercial motor vehicle. That equals a mere 2.7 percent of the total number of recordable incidents at these facilities. Collectively, these participants reported the loading and unloading of over 1.75 million truck and railcars last year.

¹ ILTA's report is based on incident rate data as reported on OSHA Form 300A in 2009 by ILTA terminal member companies. The data represents individually reported data for 349 facilities and aggregated data for over 150 additional facilities located throughout the United States.

Given the low total number of fall-related injuries during loading and unloading operations, combined with our industry's demonstrated commitment to providing fall protection for terminal employees and contractors, ILTA believes that it is not necessary for OSHA to promulgate specific fall protection requirements for rolling stock and motor vehicles. Moreover, ILTA believes that such an action would be ineffective in improving performance commensurate with persistent risks and would divert scarce resources from areas where they could be used to provide greater overall benefit to industry personnel, their safety and the continued viability of terminal operations.

2. Travel Restraint Lines Should have Sufficient Strength to Withstand Twice the Potential Impact Energy of the Design Shock Load, Rather than be Required to Meet the More Severe Standard for Lines Designed to Withstand Forces Resulting from a Fall.

(a) Travel Restraint Line and Travel Restraint Systems

The proposed standards for personal fall protection systems in Subpart I, § 1910.140 define "travel restraint (tether) line" as "rope, wire rope, or lanyard used to transfer forces from a body support to an anchorage or anchorage connector in a travel restraint system." (75 FR 28902-28912) The rule further states:

"The purpose of a travel restraint line is to prevent an employee from reaching a fall hazard. *These lines need not be designed to withstand forces resulting from a fall,*" (75 FR 28906, emphasis added).

ILTA supports this definition and recognizes it as distinct from that of a "fall arrest system" (which may include horizontal lifelines) for the purpose of safely arresting an actual fall. Yet OSHA has seemingly contradicted itself by proposing that restraint lines used in travel restraint systems be capable of meeting the standards required for a fall arrest system, supporting at least a 5,000 pound (13.3kN) tensile load:

"The Agency is proposing the 5,000 pound requirement to be consistent with other requirements in this section.... This requirement provides an important safety factor *if* a restraint line is ever used as a lifeline; for example, if it is not rigged properly and a fall occurs, the restraint line would effectively become a lifeline and would have to meet the 5,000 pound requirement." (Paragraph (c)(14), 75 FR 28907)

ILTA strongly opposes the unnecessarily stringent application of fall arrest system standards to restraint lines. OSHA's justification is based on a purely hypothetical situation and such a requirement would obviate any and all distinction between the definitions of a restraint line and a lifeline. A fall can never occur from a properly designed and installed, permanently attached restraint

line. As such, it is unnecessary and inappropriate to require that a restraint line meet the more burdensome standard. A more appropriate approach would be for OSHA to clarify that a safety line installation possessing a reasonable potential to function as a life line would be subject to the corresponding requirements for lifeline, regardless of whether the facility has inappropriately characterized it as a restraint line.

Paragraph (c)(5) relating to lanyards and lifelines used in fall arrest systems requires self-retracting lifelines and lanyards that limit free fall to 2 feet (0.61 m) or less to be capable of sustaining a minimum tensile load of 3,000 pounds. This standard, departing from the “hypothetical” reasoning employed in paragraph (c)(14), illustrates OSHA’s recognition of the appropriateness of relating safety standards to their intended service risk.

Also, in paragraph (c)(11) for horizontal lifelines installed and used under the supervision of a qualified person, OSHA explains that “the safety factor of two provides adequate protection and has already adopted this approach in the general industry, construction, and shipyard employment standards on fall protection” (75 FR 28098). Given that a properly installed restraint line would never be expected to encounter more severe service than a properly installed horizontal lifeline, there is no rational basis for imposing a standard for restraint lines that exceeds the standard applicable to horizontal lifelines.

Therefore, as an alternative to the proposed 5,000 pound threshold, ILTA recommends a standard that would require a restraint line to have sufficient strength to withstand twice the potential impact energy of any strain that could be placed upon the system. OSHA could derive applicable language from its proposal for personal fall arrest systems, included in paragraph (d)(1)(iii), (75 FR 28911):

[Restraint lines must] have sufficient strength to withstand twice the potential impact energy of the design shock load. The system would have to be capable of withstanding an impact force of twice the potential arresting force of the employee using the system. The Agency believes that a safety factor of two is necessary because of normal wear on the system.

Similarly, ILTA recommends that the component parts of travel restraint systems be required to meet the standard for travel restraint systems rather than the more stringent requirements of personal fall arrest equipment *unless* those components may be employed in a fall arrest situation.

(b) Qualified Persons

Under the proposed requirements for anchorages in paragraph (c)(13), “If an employer cannot find or develop an anchor point capable of supporting a 5,000 pound load, then an anchor point of lesser strength may be used *only if* it is both part of a complete fall protection system maintaining a safety

factor of at least two, and it is designed, installed, and used under the supervision of a qualified person. The Agency anticipates that employers who cannot achieve the 5,000 pound anchorage strength would be able to meet the two to one safety factor.” (75 FR 28908)

ILTA strongly supports the use of a “qualified person” for this purpose as well as the definition of “qualified” as included in this proposed rule. The applicable paragraph (b) definition 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.” (75 FR 28905) This definition is consistent with the definition in the OSHA construction industry standards at §1926.32(m), and its shipyard employment standard for personal protective equipment at §1915.151(b). It is also consistent with the definition being proposed for the general industry standards under subpart D, Walking-Working Surfaces (75 FR 28873).

The proposed definition is also identical to that used in the national consensus standard, ANSI/ASSE A10.32, but differs from the ANSI/ASSE Z359.0-2007 standard which suggests that the qualified person be an engineer. OSHA’s proposed language for walking-working surfaces and personal protective equipment will ensure consistency with the existing definitions in OSHA’s fall protection rules for construction and shipyard employment. While the proposed definition differs from that used in the general industry standard at § 1910.66, ILTA supports the distinction.

ILTA Recommendation

ILTA recommends that OSHA not initiate a separate rulemaking relating to fall protection for rolling stock and commercial vehicles. In addition, ILTA recommends that OSHA adopt language for travel restraint lines requiring that they have sufficient strength to withstand twice the potential impact energy of the design shock load, rather than be required to meet the more severe standard for lines designed to withstand forces resulting from a fall.

Thank you for your consideration of these comments.

Sincerely,



R. Peter Weaver
Director of Regulatory Compliance and Safety