

Wisconsin General Industry Safety Newsletter

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Exposed to a fall hazard.

Rolling Stock Hazards

WHAT? “Rolling Stones? – No!, **Rolling Stock!**!” It has been described as the stuff that doesn’t stay in your yard very long! Very little attention is paid to this area of the facility due to its transient nature. Multi-employer work-site policy comes into play when a trucking firm’s trailer, hopper or tanker pulls into the host facilities’ dock. To top it off, jurisdiction is fractured between OSHA and DOT.

The National Census of Fatal Occupational Injuries rates truck driving as the most dangerous occupation. Any trucking firm will tell you that their primary safety and health concern for truck drivers is slips, trips and falls. Numerous injuries and fatalities are contributed to fall and crushing hazards when working on or around trailers, hoppers and tankers. Falls from non-moving vehicles make up over 10% of the fall fatalities annually and are not limited to the truck driver.

A letter of interpretation from October 18, 1996 explains OSHA’s enforcement policy relating to fall hazards from the tops of “rolling stock,” rail or over the road hoppers, tankers, or trailers. OSHA determined that existing standards are not applicable to “rolling stock”, therefore the General Duty Clause, Section 5(a)(1) would be used where feasible means exist to eliminate or materially reduce the hazards. ([Click this link for the letter](#))

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Since this interpretation, OSHA has issued and sustained General Duty Clause citations for fall hazards from hoppers, tankers and trailers. There are a number of practical abatement solutions that eliminate the fall hazard.

For example, a main reason to access flat bed trailers is to tarp the load to protect it from the elements. Curtain side trailers are an alternative to manually tarping flat beds. Tarping can also be done with mechanical devices with the worker on the ground. An engineered fall protection system could also be used.

These links provide more detailed information.

http://www.slidingtarpsystems.com/EllisFeature_0508.pdf

<http://www.lni.wa.gov/Safety/Research/FACE/files/LoadUnload.pdf>

Fatal falls information from the National Census of Fatal Occupational Injuries: COFI

<u>Year/Event</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
All Falls	770	809	835	700
Fall from Ladders	129	129	134	119
Falls from Non-Moving Vehicles	75	77	92	91

The other major hazard of “Rolling Stock” is the transported material moving or rolling off the trailer and crushing worker(s). Yard, dock and forklift workers need training in how to load, secure and unsecure materials. The Department of Transportation, Federal Motor Carrier Safety Administration’s 49 CFR 393 rule titled *Protection Against Shifting and Falling Cargo* specifics acceptable means to transport particular articles such as: Dressed Lumber and Building Products, Metal Coils, Paper Rolls, Concrete Pipe, Logs, Intermodal Containers, Rolloff Containers, Large Boulders (aka “Rolling Stone”), and Heavy Equipment and Various types of Vehicles. The link for that information is <http://www.fmcsa.dot.gov/rules-regulations/truck/vehicle/cs.htm>

“Rolling Stock” topic has been mentioned as a focus point of the Obama Administration. Take time to evaluate the risk and hazards that exist at your facility, whether it is your employees exposed or another contractor’s employees. There are feasible abatement methods available and the hazard can be cited.



Stairway with a working platform is used to access the tanker hatch.

Guardrails provide back and side protection on these platforms.



Logs are stacked higher than the side rails. When binders are released, the top log can roll off the trailer. A fatality occurred in the Madison Area with a similar stacked load.



Am I Required To Comply With A Consensus or Private Standard?

Do I have to comply with NFPA 70E for working on electrical or NFPA for combustible dust? Do my machines have to be safeguarded to the ANSI requirements? Do I follow the OSHA PEL or ACGIH TLV for the allowable air contaminants? These questions are brought up frequently about why OSHA uses ANSI, NFPA, ACGIH and other association guidelines and standards. So, what is the appropriate application of consensus standards?

OSHA uses Consensus Standards in four main ways:

1. Incorporation by reference – citing the name, year, and part or section of the National Consensus Standard;
2. Using the National Consensus Standard as the source or basis of an OSHA standard – nearly “word for word”;

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3. Citing the National Consensus Standard as a reference – e.g. to indicate an acceptable means to meet a performance-language standard;
4. Identifying National Consensus Standards in Notes or Appendices either for additional information or compliance assistance.

When OSHA was formed in 1970, OSHA had two years to adopt both national consensus standards and establish Federal standards as OSHA standards without following notice and comment rulemaking procedures. OSHA adopted some of the consensus standards through “incorporation by reference”. When it incorporates a consensus standard by reference, OSHA requires employers to follow a consensus standard – identified by name and *date*. These are located in 1910.6.

Section 6(b)(8) of the OSH Act states: “Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.”

In the National Technology Transfer and Advancement Act (NTTAA), Congress directed Federal agencies to use voluntary consensus standards “to the extent practicable” and to participate in the development of voluntary consensus standards. The Office of Management and Budget has issued Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, to guide agencies in implementing the NTTAA. While the NTTAA does not expand the obligations OSHA already has under Section 6(b)(8) of the OSH Act (to consider consensus standards during rulemaking), it demonstrates the importance Congress continues to place on the use of consensus standards by administrative agencies. In addition, the use of consensus standards can bring diverse global standards into agreement and eliminate barriers to trade by establishing standards to which all nations can design and test products, particularly machinery and equipment. The adoption and use of consensus standards saves time and money for the Federal government, allowing it to take advantage of the high quality documents developed by technical experts in diverse and specialized fields, and to participate with them in the development process.

OSHA can also adopt the consensus standard by incorporating the relevant language directly into the regulatory text of the OSHA standard. In many OSHA standards, the wording of the regulatory text is directly from the consensus standards. **NOTE: Copyright issues do come into play here, so OSHA does not do this frequently at this time.**

There are over 200 consensus standards incorporated by reference with very few updated since they were originally adopted. For instance; ANSI O1.1-54 (R 61) Safety Code for Woodworking Machinery which was published in 1954 and reaffirmed in 1961. The current ANSI version is 2004.

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Improper storage container for flammable and combustible liquids.

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November 24, 2004; OSHA announced “Updating OSHA Standards Based on National Consensus Standards”. Several standards have been updated such as PPE and acetylene. Each update must go through the entire rule making process.

Consensus standards can also be used to provide supporting documentation in General Duty Clause citations. Consensus or private standards may be used to provide evidence of industry recognition, seriousness of the hazard or feasibility of abatement methods.

This November 1, 2002 letter of interpretation describes the interaction with the general duty clause and a consensus standard – in this case, eye wash stations. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24288

OSHA cannot use the General Duty Clause if an OSHA standard exists. If OSHA has an established level for an air contaminant under 1910.1000, OSHA cannot enforce a more stringent ACGIH TLV (Threshold Limit Value). Remembering that most air contaminant levels were established in 1970 from 1950-1970 science, it would be prudent to compare and meet the more stringent air contaminant levels.

So why does OSHA cite NFPA 70E for electrical and various NFPA standards for combustible dust? OSHA isn't citing the National Consensus Standard. OSHA issues the General Duty Clause citation to address the **HAZARD**. The General Duty Clause citation requires that feasible abatement or corrective methods are available. The Consensus standards offer a means of feasible abatement.

“OSHA IS THE SHALL – CONSENSUS STANDARD IS THE HOW”

Consensus Standards Side Bar 1:

In 1989, OSHA replaced many air contaminant levels in 1910.1000 that included incorporating 164 substances which had not been regulated before plus 212 new limits for substances which had pre-existing limits. Many new levels were based on ACGIH guidelines. OSHA was sued for not going through proper rulemaking procedures. The Court of Appeals decision in **AFL-CIO v. OSHA**, 965 F.2d 962 (11th Cir., 1992), vacated those limits.

Several State Plan States such as Minnesota kept the 1989 Air Contaminant limits. Carbon monoxide levels were affected. The original 50 ppm TWA was temporarily reduced to 35 ppm TWA and a new 200 ppm STEL. Federal enforcement is back to 50 ppm for an 8-hour day with no short term limit. ACGIH recommended levels are private standards and not true consensus standards due to the methods used to determine exposure levels.

Example of acceptable means to meet a performance-language: 1910.151 Appendix A (non-mandatory), First Aid supplies references: ANSI Z308.1-1998 “Minimum Requirements for Workplace First-Aid Kits.”

Consensus Standards Side Bar 2:

Example of Incorporated By Reference (IBR):

Text in 1910.6: 1910.6(e)(43) ANSI O1.1-54 (R 61) Safety Code for Woodworking Machinery, IBR approved for 1910.261(1)(3)(xvii), (e)(7), and (i)(2).

OSHA Standard that the ANSI standard applies to: 1910.261(i)(2): Butting saws. Hood guards shall be provided on butting saws, in accordance with American National Standards O1.1-1954 (reaffirmed 1961). This converts a voluntary standard into a Federal requirement. The text for 1910.213 was taken primarily from ANSI O1.1-54 (R 61).

Allowing Consensus Standards to dictate compliance methods: Such as the use of ANSI B.11 for machine guarding.

1910.212(a)(3)(ii): The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be *in conformity with any appropriate standards* therefore, or in the absence of applicable specific standard, shall be so designed and constructed, as to prevent the operator from having any part of his body in the danger zone during the operating cycle.



There is no non-slip surface on this mechanical power press foot pedal.

Region 5 General Industry Fatalities for February 2010 to April 2010

SIC code and accident description

0783—Ornamental Shrub and Tree Services

A laborer was driving a company truck and following two other company trucks on a county road. The weather was extremely foggy. When the trucks crossed a railroad crossing the first two trucks stopped before crossing and rolled their windows down to listen for trains. The third truck did not stop and listen and was struck by a train.

3111—Leather Tanning and Finishing

An employee was working from an 8-foot step ladder and making adjustments on the wipers on a pasting machine when he fell and struck his head on the floor.

4225—General Warehousing and Storage

An employee was operating a forklift and was found caught between the side of the forklift which was running and did not have the parking brake set and a stack of Gaylord boxes containing plastic pellets.

4231—Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation

An owner/operator driver was delivering a semi-trailer load of pallets to a warehouse when he was apparently run over by his own truck.

5093—Scrap and Waste Materials

An employee at a scrap yard was using a torch to cut through brackets that held the body of a school bus to the frame or chassis. The bus was laying on its' side and the employee had cut through all the brackets. A second employee was using a Caterpillar loader to pull the chassis away from the body but they did not separate. The first employee walked up to the bus to see what was hindering the separation when the chassis released and struck the first employee in the head.

7992—Public Golf Courses

An employee was driving a golf cart, pulling a sprayer attachment and was applying liquid fertilizer on the golf course. As the employee was driving up a hill the cart turned over and crushed the employee.

7699—Repair Shops and Related Services, Not Elsewhere Classified

A mechanic was working beneath a trailer supported by a jack stand when the jack stand failed and crushed the employee.

9131—Executive and Legislative Offices Combined

An employee driving a van was found pinned between the van, which was running and in "drive", and an entrance door to a building.



A floor opening or trap door that has no guard.

Top Ten Violations

Listed below are the “top ten” cited violations found during Federal OSHA general industry inspections from October 2008 through September 2009.

<u>Rank</u>	<u>Standard</u>	<u>Hazard</u>
1.	29 CFR 1910.147	The Control of Hazardous Energy
2.	29 CFR 1910.1200	Hazard Communication
3.	29 CFR 1910.134	Respiratory Protection
4.	29 CFR 1910.212	General Requirements for All Machines
5.	29 CFR 1910.305	Wiring Methods, Components, and Equipment for General Use
6.	29 CFR 1910.178	Powered Industrial Trucks
7.	29 CFR 1910.303	General Electrical Requirements
8.	29 CFR 1910.119	Process Safety Management of Highly Hazardous Chemicals
9.	29 CFR 1910.219	Mechanical Power-Transmission Apparatus
10.	29 CFR 1910.215	Abrasive Wheel Machinery

This newsletter provides an overview of OSHA standards and does not alter or determine compliance responsibilities, which are described in the OSHA standards and the *Occupational Safety and Health Act*. Because interpretations and enforcement policy may change over time, the best sources for additional guidance on OSHA compliance requirements are current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.



Deficiencies regarding electrical safety-related work practices include not performing an air test on insulating gloves prior to use and not performing periodic electrical tests.

Wisconsin Contact Information

Wisconsin OSHA Consultation Offices:

- Wisconsin State Laboratory of Hygiene
2601 Agriculture Drive, Madison, WI 53718
(608) 226-5240 (Health)
- Wisconsin State Laboratory of Hygiene
141 NW Barstow Street, Fourth Floor, Waukesha, Wisconsin 53188
800-947-0553 (Safety)

Wisconsin OSHA Enforcement Offices:

- Appleton Area Office, 1648 Tri Park Way, Appleton, Wisconsin 54914,
(920) 734-4521, (920) 734-2661 FAX
- Eau Claire Area Office, 1310 W. Clairemont Avenue, Eau Claire, Wisconsin 54701
(715) 832-9019, (715) 832-1147 FAX
- Madison Area Office, 4802 E. Broadway, Madison, Wisconsin 53716
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Do you have comments or ideas for articles?

E-mail them to the Wisconsin General Industry Safety Newsletter at Zortman.Chris@dol.gov

Ideas for Articles for Upcoming Issues

Do you have any ideas for articles that you want to see or topics that you think are important?
Please let us know at the email address listed just above.