



# U.S. Department of Labor

## Occupational Safety & Health Administration


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### Standard Interpretations

## 10/18/1996 - Enforcement of Fall Protection on Moving Stock.

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• **Standard Number:** [1910 Subpart D; 1910.132\(d\)](#)

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

October 18, 1996

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

FROM: JOHN B. MILES, JR, DIRECTOR  
[DIRECTORATE OF ENFORCEMENT PROGRAMS]

SUBJECT: Enforcement of Fall Protection on Moving Stock

The Directorate has been asked by the National Grain and Food Association (NGFA) to clarify the Agency's enforcement policy relating to fall hazards from the tops of "rolling stock," such as rail tank or hopper cars and tank or hopper trucks or trailers. The reason for this request is that the NGFA is concerned that the Agency may inappropriately issue citations for fall hazards from such equipment. Part of the NGFA's concern is that inspectors from the Federal Grain Inspection Service allegedly have indicated to grain handling companies that they are unwilling to place themselves in situations which potentially violate OSHA regulations, thereby risking citation.

The contents of rolling stock, when located in yards, on sidings or similar locations, frequently have to be sampled to ensure continued grain quality. Without Federal grain inspection services, no grain can be moved to market. Employees or inspectors may walk along the tops of the cars while they go from car to car to obtain samples.

The current fall protection standard in general industry (Subpart D) does not specifically address fall hazards from the tops of rolling stock. The new proposed fall protection standard, 55 Fed. Reg. 13360, explicitly excludes rolling stock from coverage. The enforcement policy of the Agency, consequently, is that falls from rolling stock also will not be cited under Subpart D.

Additionally, it would not be appropriate to use the personal protection equipment standard, 29 C.F.R. 1910.132(d), to cite exposure to fall hazards from the tops of rolling stock, unless employees are working atop stock that is positioned inside of or contiguous to a building or other structure where the installation of fall protection is feasible. In such cases, fall protection systems often can be and in fact are used in many facilities in the industry.

Apart from the safety obligations of grain handling companies toward their employees, the U.S. Department of Agriculture is obligated under Section 1960.9, as an employer, to provide its employees, the grain inspectors, a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious harm, in addition to complying with OSHA's regulations.

The General Duty Clause, Section 5(a)(1) of the OSHAct, requires an employer to provide employees with a workplace that is free from hazards that are recognized by the employer's industry and that are likely to cause death or serious physical harm. Thus, where feasible means exist to eliminate or materially reduce

the hazard, a citation can be issued for a Section 5(a)(1) violation. For example, in the case of inclement weather such as icy conditions or heavy rains and winds, both the grain handling company and the U.S. Department of Agriculture are responsible for guarding against workplace hazards. In addition to making a determination as to whether the tops of the rail cars are safe and free from hazards to allow employees to perform their duties, the employers should also make an assessment of the employee's physical ability to perform the job and ensure that employees have received adequate training to perform the job safely.

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