

Comment No 1; Richard Gray, President, Ellwood Safety Appliance Co., via email dated Monday, October 22, 2012

Dear Sir or Madam,

Some comments for your committee to consider.

Add on full foot guards provide toe impact and compression protection as well as full metatarsal impact and compression protection due to the design of the metatarsal guard, which rests on the ground. All of these guards are tested to the ANSI, ASTM standards, and provide protection equal to the 75 foot pound standard or 50 foot pound standards for women.

Guards are accepted by the federal government.
Guards are used by the military in a number of applications.

One last note, on September 13th 2001, seven hundred pair of steel toe guards were in New York City, available for all personnel at the World Trade Center, as needed.
Could California personnel round up that many safety shoes, in different sizes and have them on site in an emergency.

Best Regards,
Richard Gray, President
Ellwood Safety Appliance Co.

Comment No 2; Don Myers, Safety & Health Business Advisor, Southern California Gas Company and Terry Thedell, Health and Safety Advisor, San Diego Gas & Electric, via email dated Friday, October 26, 2012

We appreciate the opportunity the Occupational Safety and Health Standards Board has given us to provide comments on the safe and effective use of strap-on foot protectors. Since the Standards Board decision to grant our variance request to use strap-on foot protectors in 2010; our employees continue to successfully use strap-on foot protectors during activities involving the use of jackhammers, rock drills, clay spades, tampers or other similar equipment used in the installation, maintenance and repair of underground utilities as a greater means to safely protect the entire foot-instep (metatarsals) and toes as compared to built-in foot protection.

We continue to believe that work boots with built-in metatarsal protection meeting the requirements of the ANSI Z41-1999 and ASTM standards are bulky and not flexible, akin to wearing ski boots. We further believe that built in metatarsal safety boots are extremely

cumbersome and restrictive during our utility work activities that require bending, squatting kneeling, and their use could lead to employee foot pain and fatigue.

The more comfortable strap-on foot protectors used by our employees were designed, built and tested to the same strength standards as those specified in the ASTM and ANSI foot protection standards referenced in Section 3385; as they meet the impact, compression and clearance performance standards for Class 75 protective footwear (a class that is appropriate for our operations). Additionally, the strap-on foot protectors do provide a superior level of protection by deflecting the impact energy to the surrounding walking surface rather than to the foot itself. In conclusion, we firmly support the proposed changes to Section 3385 to permit the use of strap-on foot protectors as offering equal or greater foot protection, comfort, and acceptance by utility employees.

Comment No 3; Dorothy Wigmore, Occupational Health Specialist, Worksafe, via email dated Friday, November 9, 2012

We are concerned about five main issues: the effectiveness of strap-on foot protection, inclusion of these requirements in the employer's Injury and Illness Prevention Program, the logic of the section (d), the unclear language about responsibilities, and the need to ensure that women get the foot protection they need at work.

1. Effectiveness of strap-on protectors

As I said in our letter of March 30, 2012, I could not find evidence that strap-on foot protectors are as effective in use as regular protective footwear. In fact, what I did find is that other jurisdictions and standard-setting organizations do not allow or certify these protectors (e.g., the Canadian Standards Association/CSA and it does not appear that Europeans allow them either). The Standards Board itself acknowledges that "ANSI Z41-1999, Section 1.4.1 states that strap-on foot protection devices are not considered acceptable foot protection".

According to Board documents, only two employers have had a variance to use the strap-on protectors. The obvious question therefore is: why allow others to do what standard-setting authorities do not sanction? Why is this regulation necessary? Who benefits from it? Why not continue to use variances?

2. Include the requirements in the IIPP

If the Board proceeds, requirements should be implemented in the context of an employer's Injury and Illness Prevention Program. Therefore, we recommend that a subsection be added to the effect that the employer must include in their IIPP how the specifics of these requirements

are to be implemented and evaluated. An example to follow is the recent bill about state hospitals having to include violence prevention programs in their IPPs.

3. Section (d) needs to be set out in a clearer way

If the Board proceeds, it must be much clearer about the testing and other requirements.

The proposal should be re-organized to lay out the steps involved clearly, starting with expecting a manufacturer to have an independent lab test protectors, and certify they passed the tests. The tests need to include tests for clearance, and to state they must be done for women's protectors too.

The next logical step is to require manufacturers to provide labels and written certification that the protector passed the required tests, not just that the tests were done. (This may be what you meant, but the proposed language only says the manufacturer's documentation is about the standards used.)

Subsection (d)(1) should be next, laying out the employer's responsibility in general, followed by specific ones related to selection, inspection, use and maintenance and training, in that order.

As we recommended in March, the Board and Cal/OSHA need to know when the protectors fail. This means the regulation should require employers to report incidents when the strap-on protectors do not work to the Board and/or Cal/OSHA. The information should be used to issue warnings about specific situations to avoid and/or to make appropriate changes to Section 3855.

4. Clarify the language about responsibilities

It could be difficult to enforce the proposed provisions because responsibilities are not clear. We recommend the changes to the current below, using the original subsection number.

4.1. Subsection (d)(1)

When an employer provides the Division with written evidence that the use of convention protective footwear is impractical or not feasible for a specific application, and the Division agrees, the employer may provide strap-on foot protectors (i.e., foot guards and toe protectors) that are at least as effective as the requirements of subsection (c)(1) or (c)(2) and meet the requirements of this subsection.

4.2. Subsection (d)(6)

Selection: The employer shall ensure that strap-on protectors are available for all employees who need the protection in the specific situation. The employer also shall select protectors that fit individual workers, provide effective protection for the specific situation, avoid hazards, and do not interfere with other protective equipment. "Fit" includes providing protectors designed for

women and paying attention to their needs for effective foot protection, and that of others who may not be considered in the design of these protectors.

4.3. Subsection (d)(7)

Training: The employer shall train employees who use strap-on foot protectors about effective and proper fit, selection, inspection and use, based on manufacturer's recommendations and practical experience.

4.4. Subsection (d)(5)

Inspection: Each time before they are used, the employer shall ensure that strap-on foot protectors are visually inspected for damage, defects and/or other indications of an unsafe condition. Furthermore, the employer shall ensure that protectors are not used if they are not safe for their intended use, and that appropriate replacements are available.

4.5. Subsection (d)(4)

Use and maintenance: The employer shall ensure that strap-on foot protectors are used and maintained according to manufacturer's recommendations.

5. Ensure women get the foot protection they need at work

To repeat our points from March, we want to draw the Board's attention to the anthropometric (size and shape) differences between men and women in general, and among men and women, especially when they come from different heritages or ethnicities.

Women are not scaled-down versions of men. For example, studies show that the length, width and circumference of women's feet tend to be smaller than men's. Instep/arch dimensions are different too, leading to different responses in that part of the foot outside physical forces. Age also influences the typical measurements for each gender. Therefore, universal one-size-fits-all protectors do not protect (even if the advertising says they fit "any shoe" or "any boot").

ASTM F2413-05 recognizes the need to differentiate between male and female wearers (line 2 on the stitched-in label), and some manufacturers do provide different strap-on protectors for male and female feet.

Given these facts, the proposed changes to section 3385, and any guidelines related to them, should state clearly that women must be provided with protectors designed for them, and that extra care should be taken to ensure a proper fit for people whose anthropometry is not considered in designing these protectors (especially those of different heritages or ethnicities).