

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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MINUTES OF THE ADVISORY COMMITTEE FOR GISO SECTION 3277 FIXED LADDERS

July 23, 2008
Sacramento, CA

1. Call to Order.

The meeting was called to order by the Chairman, Conrad Tolson, Senior Engineer, Occupational Safety and Health Standards Board (OSHSB), at 9:00 am on Wednesday, July 23, 2008, in Sacramento. The Chair was assisted by Cathy Dietrich, Associate Government Program Analyst, OSHSB. The meeting opened with self-introductions by those in attendance, including members and interested parties.

2. Opening remarks.

Attendees were encouraged to sign-in so they would be placed on the mailing list to be kept informed of developments on this proposal.

Chair reviewed the Standards Board policy regarding the use of advisory committees; i.e., the Board has found advisory committees to be an effective way to reach consensus. He noted that the committee consensus will be used to develop a reasonable and effective proposal; however, staff may amend, modify or reject recommendations later in the rulemaking process. The Chair also noted that California standards are required to be at least as effective as the counterpart Federal Standards which are found in 29 CFR 1910, Subpart D, Walking-Working Surfaces.

3. Discussion of the proposed rulemaking:

Background:

This proposed rulemaking is the result of a Division of Occupational Safety and Health (Division) Form 9, Request for Change in Existing Safety Order, which was prompted by a fatal accident in a mining operation where an employee fell from an elevated location. It is thought that the victim lost his grip and fell while descending a caged ladder, striking the landing and falling back over the guardrail to his death 30 feet below. The Division believes that a back guard at this location would have prevented this type of accident from occurring; however, nothing currently in Section 3277 was cited due to the lack of clarity. There were also difficulties in understanding the language and diagrams in Section 3277, another task the committee may wish to address.

Overview:

Chair briefly summarized the proposed changes.

- Subsection (b). The Chair noted that the rulemaking proposal would add two new definitions ("Carrier" and "Safety Sleeve"). These definitions are taken from ANSI A14.3-2002 and are needed to add clarity to the definition for "Ladder Safety System" which is proposed to replace the existing definition for "Ladder Safety Device." The new definition for "Ladder Safety System" is based on ANSI A14.3-2002 with minor clarifications.
- Subsection (f)(7). Requirements have been clarified to apply to all hatch covers, and not just to counterweighted hatch covers.

- Subsection (g)(2), Exception 2. The term “approved safety belts and lanyards” is proposed to be replaced with “approved personal fall protection system.” This modification is recommended for consistency with changes to Sections 3414 and 3416 - Outdoor Advertising Structures (a separate rulemaking, adopted at the August Board Meeting).
- Subsection (g)(4). Modifications proposed by the Division to extend cage bottoms at elevation.
- Subsection (g)(6). Adds a maximum dimension for a ladder well to provide fall protection equivalent to that required for a cage.
- Subsection (j)(1). Modifications are proposed that will clarify when landing platforms must be provided.
- Subsection (j)(3). Modifications to harmonize with modifications proposed for (g)(4).
- Subsection (m). Expands applications of ladder safety systems (will no longer be limited to just tower, water tank, and chimney ladders).

4. Review of written comments:

The Chair noted that no written comments were received prior to the meeting.

5. Establishing necessity for the rulemaking.

John Leahy, Division, Mining and Tunneling Unit, explained the circumstances of the accident that led to the Division’s Form 9. The accident occurred at a rock plant. The employee was descending a caged ladder, approximately 30 ft. high. It is believed he went to answer a phone while descending the ladder and lost his grip, fell to a platform and then fell over the rail to his death. Mr. Leahy said that due to lack of clarity in the standard, it was not clear that a violation of 3277 had occurred. The Division further explained that the hazard of falling over the guardrail exists primarily where the diameter of the fixed ladder cage exceeds the depth of the landing. The Division noted that there is ambiguity in Figure 11 that appears to limit application of the back-guard only to short ladders and inclined ladders. The Division therefore decided to request clarification of the standard.

Following the Division’s presentation, the Chair queried the committee on the necessity for clarification of Section 3277, and, no opposition being expressed, consensus was determined to move ahead with reviewing the proposal.

6. Section-by-section review.

Subsection (b), Definitions.

The committee agreed to review the definitions in context, as the terms appear in the proposal, and/or to come back to them at the end of the discussion.

Subsection (f)(7). Hatch covers.

The committee consensus was to make hatch cover requirements applicable to all types of hatch covers rather than just to counterweighted hatch covers.

Subsection (g). Cages or Wells.

Subsection (g)(2). The Chair noted that the first sentence should read: “Cages or wells (except as provided under subsection (m)(~~5~~))...” This is an error carried over from the federal standard where the cross-reference is (5); however, the correct state cross-reference should be subsection (m) for ladder safety systems. There was no objection to changing the cross-reference.

Exceptions to (g)(2). The Division recommended that for exception 1, the verbiage: “...where employees wear and use approved safety belts and lanyards which can be utilized if a rest period is required” be replaced with a cross-reference to the outdoor advertising section (Article 11) for fall protection.

Subsection (g)(4). Bottom of cage.

Mr. Leahy opined that the verbiage is much clearer than the drawings. He noted that the back-guard on a platform where the platform depth is greater than the cage diameter, such as is shown for short ladders, could present a head strike hazard and that the right side of Figure 11 (inclined ladders) or just an elevated guardrail might be better.

Mr. McCune noted that where the cage opens on the side presents a similar hazard as where the cage opens on the back when the walkway terminates near the ladder. He also noted that there is no limitation on how wide the ladder cage can be (i.e., it is possible to fall over a rail at the side of the cage in some situations).

Subsections (g)(4)(A) and (B), Cage and Guardrail Conditions.

Mr. Leahy noted that condition (A), where the cage terminates on a walkway which is deeper than the cage¹, there are potential head obstacles if the back-guard slopes uniformly from the rail to the bottom of the cage. He suggested adding options which are equivalent, such as raising the handrail which would avoid head interference problems.

With regard to situations where there could be hazards to the side of the cage, such as at or near the end of a platform, Mr. Bell suggested that the phrase in (g)(4)(A), “back edge of the cage” be changed to just “the edge of the cage.”

Several committee members favored raising the railing rather than inclining the cage from the rail to the ladder cage in situations where the platform extends beyond the cage [i.e., Condition (B)] in order to prevent interference with the walking space. Where the railing is extended upward, it would have to be constructed so that the size of openings in the railing did not exceed that required for a cage in order to provide similar protection. Mr. Leahy opined most employers prefer extending the railing upward rather than using a cage extension. In those cases, rather than using strapping, employers often use screen decking material to “cage off” that portion of raised the railing several feet either side of the ladder centerline. This would include screening at the platform end where this condition occurs. Mr. McCune commented, however, that extending the guardrail restricts the climbing space on a narrow platform [i.e. Condition (A)].

Mr. Johnson, Associated Roofing Contractors of the Bay Area Counties (ARCBAC), asked whether the proposed standards would require retrofits. There was discussion about retroactivity/grandfathering. The Division felt that these are clarifications of existing requirements and it is important that they apply to all ladders, including existing ones. He opined that a large number of non-conforming ladders are already in existence, including fixed ladders at refineries which were constructed in the 1st half of the 20th century.

Mr. McCune noted that the part of Figure 11 for short ladders at elevation has been in the standard for probably about 30 years without any verbiage to accompany it. [Ed note: a similar situation occurs in 29 CFR 1910.27(d)]

Discussion continued on the problem that exists where the landing or walkway is narrower than the cage [Condition A]. It was speculated that ANSI may have avoided addressing this situation because of the

¹ Ed note: Although subsection (A) was referenced on the recording, the context of the comment appears to refer to the conditions of subsection (B). The confusion may have arisen from the fact that the last part of the last sentence in (g)(4) overlaps with (g)(4)(A) [this overlap was not noted until after the advisory committee]. Board staff proposes to clarify and eliminate this overlap when the rulemaking proposal is published.

problems that exist. Committee members were in agreement that the back-guard needs to extend from the bottom of the cage to the top of the guardrail.²

Mr. Jorgensen, International Alliance of Theatrical Stage Employees (IATSE), stated that in situations where the landing is deeper than the cage, the top of the back-guard should go out horizontally [Ed note: similar to that shown in Fig. 11 “Inclined ladder at elevated location”]

Mr. Robert Armstrong, TOC Management Services (timber industry), suggested that, in the case where the landing extends beyond the back of the cage and an elevated guardrail is used, we should specify that the guardrail extend to an elevation at least even with the bottom of the cage.

The Chair, summarizing the discussion on (g)(4)(A), stated that it appeared there was a consensus for it to read as follows: “(A) When the guardrail is located at a distance equal to or less than the distance from the rungs to the back edge of the cage, the back-guard shall be sloped and terminate on the guardrail.”

With regard to (g)(4)(B), Chair opined that a third illustration might need to be added to Figure 11 where a guardrail extension was used in lieu of a cage extension; however, Mr. Bell felt that would be covered by “equivalent construction” permitted by (g)(1).

The Chair summarized the committee’s discussion thus far. He noted that (g)(4)(C) and (D) appeared to be OK as proposed; they describe the construction of the guardrails, and (g)(1) permits equivalent construction.

Mr. Sullivan, United Steelworkers, asked how far each side of the ladder centerline the back-guard should extend. The Chair noted that although the question of distance the back-guard should extend from the ladder centerline had been raised, it thus far had not been decided. Mr. Witter suggested 4 ft. either side of the ladder.

There was also discussion about the illustration for inclined ladders in Fig. 11 which some thought might be interpreted to require a top cover on the extension; however, it was noted that the illustration indicates that the top pieces are described as “spacers.”

Mr. Sullivan, suggested phasing-in the new requirements, perhaps 25% each year over a four-year period for existing ladders. The Division felt that these standards were merely a clarification of existing requirements, and therefore that no phase-in was needed. Mr. Figueroa, Machinists & Aerospace Workers, felt they should be effective immediately because of the dangers to life and limb. Mr. McCune said he had seen a lot of existing installations that had been installed under the existing standard and were already in compliance with the proposed clarifications. He felt that the cost of compliance for non-conforming installations would not be significant. He asked if anyone had an idea of the magnitude of the problem. No one responded.

Mr. Lamaestra, Pacific Maritime Association (PMA), inquired whether this would apply to ladders for operator access to the operating stations on their Rubber-Tired Gantry Cranes (RTG’s). There was discussion regarding application of this standard to RTG’s and similar mobile carriers. The committee looked at the Section 3277 definition of fixed ladders:

“A fixed ladder is a ladder permanently attached to a structure, building, or equipment. Ladders

² The committee discussion centered on cage and guardrail extensions rather than on back-guards per se. Since “back-guard” is not a defined term. Consistent with the advisory committee discussion, Board staff proposes to replace “back-guard” with “cage extension or equivalent” in the rulemaking proposal. Vertical guardrail extensions, where permitted, will be required to be equivalent in construction to ladder cage extensions.

referred to in this code shall be construed to be fixed ladders.”

The Division opined that “equipment” refers to fixed equipment, such as generators in a power plant, rather than to ladders on mobile equipment. They also noted that there was case law on mobile equipment such as car carrier and arborist vehicles which established Section 3210(b) Exception 9 as the applicable standard for mobile vehicles.

The committee returned to the question of retroactivity. A Mining and Tunneling representative estimated that, out of approximately 400 mines in California, only 15 were out of compliance (and that they are now in compliance). No further comments were received that would indicate that this rulemaking clarification would have a significant economic impact.

Width of Back-guard.

There was discussion about the width of the back-guard. There was a suggestion of 4 ft. either side of the centerline; however, Mr. Bell felt that 2 ft. either side (4 ft. overall) would be adequate. The committee appeared to be in agreement that the back-guard should extend 2 ft. either side of the ladder centerline. The committee was also in agreement that the width requirement should apply to any place where the ladder is near an edge or end of the platform since it might be required at the end of the platform in addition to the back. The committee also felt that this requirement should be located in (g)(4)(F) to apply to any condition, not just to (g)(4)(A).

It was noted that “back-guard” is not defined. There was discussion whether the guard should be called a “back-guard,” a “cage guard,” a “ladder cage extension,” or something else since it might be required at the end of the platform in addition to the back. Although the Division felt guardrails were covered by “equivalent construction”, several committee members felt that “equivalent construction” is open to interpretation, and some inspectors might not accept a vertical guardrail extension in lieu of a ladder cage extension. They felt that vertical guardrail extensions should be specifically listed as a means of protection; however there were concerns that it should be clear that vertical guardrail extensions should comply with the opening limitations for back-guards to prevent a worker from falling through an opening in the guardrail.

However, the committee was unable to develop wording which would limit opening size for vertical guardrails when used as extensions.

Subsection (g)(5), Size of Cage, and Subsection (g)(6), Ladder wells.

There were no comments on the proposed changes.

Subsection (j). Landing Platforms.

Definition of “ladder safety system.”

The definition of “ladder safety system” was reviewed as part of the review of subsection (j). Mr. Pena opined that safety belts should be included in the definition because ladder safety systems can be used on communication towers. The Division responded that the High-Voltage Electrical Safety Orders (HVESO) and the Telecommunication Safety Orders (TCSO) are more specific, and they do permit the use of work positioning devices, including safety belts. Chair also opined that Mr. Pena’s concern is also addressed by subsection (j)(1), Exception 2.

Mr. Leahy commented that he could never understand why the parenthetical “except on chimneys” under (j)(1) was there. Chair noted that chimneys are also covered under Exception 1, therefore it was agreed to strike-out the parenthetical.

The Chair reviewed (j)(1)(A)-(E). The committee had no comments on them as proposed at this time.

Exceptions to (j)(1).

Exception 1.

Mr. Leahy questioned why the phrase “in underground mines” is included here, since underground mines have their own safety orders. It was agreed to strike this phrase and, for clarity, add an Exception 3, “Underground mines as covered by the Mine Safety Orders.” “Ladders in chimneys” was also clarified to read “Ladders on chimneys.”

“Fixed ladders” and construction.

Mr. Leahy asked why landings and offsets are not required on construction ladders; he said he had seen ladders 70 and 80 feet down (examples: access to bore pits) with no landings and offsets. He said these ladders are fixed ladders, and he wanted to know why Exception 1 exempts construction fixed ladders. Messrs. Witter, Independent Roofing Contractors (IRCC), and Bradway, Associated General Contractors (AGC), commented that construction is, by nature, not permanent, and fixed ladders, by definition, are permanent. However, Mr. Leahy noted that some construction installations are long-term because of the construction taking place and these ladders could be there for three years or so. Mr. Bell commented that if the ladder will stay after the construction is completed, it is a permanent installation and must comply with Section 3277. Mr. Leahy added that one of the installations he was talking about was Devil’s Slide Tunnel. He opined that the ladders are “temporary fixed ladders” in that they will be in-place about 7 years. Some of the ladders will remain after construction is complete; however, others will be in-place for the duration, but removed at the completion of construction. He opined they are not portable ladders. The shaft is 70 feet deep, approximately 30 feet in diameter. Mr. Bradway felt that a slippery slope would be created if the construction exception was removed and if “temporary fixed ladders” was added. This would open enforcement up to interpretation.

Mr. McCune noted that the Construction Safety Orders (CSO) refers to General Industry Safety Orders (GISO) Section 3277 for fixed ladders, where ladders are part of the structure. Job-built ladders and scaffold ladders are not included in GISO 3277; they have their own standards.

Messrs. Sullivan and Bradway were concerned about a proposed addition of a term “temporary fixed ladders” as they felt it would open the standard up to arbitrary interpretation of when fixed ladder standards would apply. There was consensus to leave “those used primarily in construction operations” as part of Exception 1. Thus, Exception 1 will read:

“Ladders on chimneys, ~~in underground mines~~, those used primarily in construction operations, fire escape ladders, and ladders equipped with treads.”

Exception 2.

The proposal to change approved “belt” to “full body harness” was viewed as creating a conflict with the TCSO. The Division opined this could also be construed to require the use of a full body harness for ladder safety systems. A consensus was reached to replace “full body harness” with “approved personal fall protection equipment.”

The inclusion of “smoke stack ladder” was determined to be duplicative of “chimney” in Exception 1, therefore it was struck out.

Subsection (j)(2) – No changes proposed.

Subsection (j)(3). The committee discussed the proposed modification to add:

“Walkways, catwalks or work platforms may function as a landing platform providing they are at least 24 inches wide (measured perpendicular to the ladder rungs) from the guardrails. Cage back-guards shall extend to the guardrail as required by Section 3277(g)(4).”

This verbiage worked in most cases except for lateral access ladders. Discussion focused on how to measure the distance from the ladder in order for the walkway, catwalk or work platform to qualify as a landing platform.

It was noted that this text was a proposed addition and was not in the counterpart federal standard. Deliberations continued culminating in a consensus opinion that the proposed addition duplicated other sections and could potentially introduce confusion about the applicability of those sections. Therefore the proposed addition was removed in its entirety and (j)(3) will remain as it is currently adopted.

Subsection (j)(4) – No changes proposed.

Subsection (m). Ladder Safety Systems.

The original proposal read:

~~“(m) Ladder Safety Devices Systems. Ladder safety devices systems may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No A landing platform shall be required for every 150 feet of travel in these cases. All ladder safety systems devices such as those that incorporate life belts, friction brakes, and sliding attachments shall be designed and installed in accordance with ANSI A14.3-2002, Section 7, Ladder Safety Systems, which is hereby incorporated by reference. meet the design requirements of the ladders which they serve. [See subsection (e).]”~~

In response to a question, the Chair noted that the landing platform at every 150 feet came from ANSI A14.3-2002 and that federal OSHA had been working on a proposal to adopt that standard since 2003. The Division commented that there are some existing ladder safety systems that have continuous runs and that do not have a landing platform every 150 feet as would be required by the new standard.

The AGC wanted to be sure that this new standard would not apply to mobile equipment and pile-drivers, and Southern California Edison wanted to be sure it would not apply to high-voltage towers and communications towers. Mr. Pena noted that they have some towers with ladder climbing safety systems that are over 300 feet in height without an intermediate landing platform. He asked if these systems could be excluded from this standard if adopted. He opined that A14.3 does not apply to electric and communication towers; furthermore, these towers were built before A14.3 was developed.

It was proposed to “grandfather” existing installations. Chair also noted that federal OSHA had been questioned about just adding a landing off to the side of the ladder safety system, and federal OSHA would not accept that as equivalent.

Mr. McCune opined that this proposal would take a requirement that was originally for ladders on towers, water tanks and chimneys that are infrequently used and make them applicable to all towers, creating new problems. He believes that we should maintain a section for “infrequently used”³ ladders and then have a separate section for all other ladders.

Mr. Pena gave a scenario where a high-voltage or communication tower might be used infrequently; however, when being worked-on, the crew might have to access it several times in one day for an insulator change-out. His concern was that it then might not be considered “infrequently” used. Another concern was that unauthorized individuals who want to do harm to themselves or draw attention to

³ Section 3207 defines frequently used as more than 12 times per year.

themselves would have a platform to use if landings were required on high-voltage and communication towers.

Mr. Bell stated that this section was not intended to apply to transmission towers; however, the committee was of the opinion that proposed changes would make it applicable to transmission towers.

There was a suggestion to leave subsection (m) unmodified (i.e., as it currently stands), except to change “ladder safety devices” to “ladder safety systems” consistent with ANSI. The Division observed that subsection (j)(1) permits the use of ladder safety systems among the available options. They also commented that if federal OSHA adopts ANSI A14.3 at some future date, this issue can be revisited at that time.

There was further discussion about the requirement for landing platforms every 150 feet and whether to incorporate the proposed reference to A14.3 for design and installation. It was noted that landing platforms are required every 150 feet by A14.3, therefore incorporating it by reference would require the landing platforms. Chair noted, however, that the reference was only to Section 7 of A14.3-2002, which does not include the requirement for spacing of landing platforms (which is in Section 4).

At this point, subsection (m) read:

Ladder Safety ~~Devices~~ Systems. Ladder safety ~~devices~~ systems may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform shall be required in these cases. All ladder safety systems ~~devices~~ such as those that incorporate life belts, friction brakes, and sliding attachments shall meet the design requirements of the ladders which they serve. [See subsection (c).]

It was noted that this draft would include an undefined term “life belts” and the definition of ladder safety system uses the term “full body harness.” There was discussion about belts vs. harnesses as they relate to ladder safety systems.

There was also discussion whether to use the term “ladder safety device” or “ladder safety system.” Mr. Hay observed that since the proposal defines “ladder safety system,” there is no need for the phrase “such as those that incorporate life belts, friction brakes, [etc]” in subsection (m), and he, as well as other members felt that the proposal should use the term “ladder safety system” since it is used in A14.3. The consensus draft subsection (m) then read:

Ladder Safety ~~Devices~~ Systems. Ladder safety ~~devices~~ systems may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform shall be required in these cases. All ladder safety systems ~~devices such as those that incorporate life belts, friction brakes, and sliding attachments~~ shall meet the design requirements of the ladders which they serve. [See subsection (c).]

7. Summary and review of the Committee’s consensus recommendations.

The following changes were made by the committee during the course of deliberation.

Subsection (f)(7). The committee consensus was to modify the first sentence to read:

(7) ~~Counterweighted h~~All hatch covers, ~~including counterweighted hatch covers,~~ shall open a minimum of 60 degrees from the horizontal.

Subsection (g)(2), Exception 2. The committee consensus was to modify the exception to read:

(2) Fixed ladders on outdoor advertising structures **covered by Article 11, where employees wear and use an approved personal fall protection system safety belts and lanyards which can be utilized if a rest period is required.**

Subsection (g)(4).

As a result of review, it was noted that the width of the back-guard is now specified under (g)(4)(F), thus the committee consensus was to modify the last sentence of subsection (g)(4) to read:

When the ladder base terminates on a landing platform or walkway at an elevation greater than 30 inches above the ground and the horizontal distance from the ladder rungs to the guardrail is 48 inches or less, a back-guard of at least the width of the cage shall be provided from the bottom of the cage to the guardrail or landing.

The committee consensus was to clarify subsection (g)(4)(A) as follows:

(A) When the guardrail is located at a distance equal to or less than the distance from the rungs to the back edge of the cage, the back-guard shall be sloped and terminate on the guardrail.

The committee consensus was to add subsection (g)(4)(F) as follows:

(F) The back guard shall be provided not less than two feet each side of the ladder center line.

Subsection (j). Landing platforms.

Subsection (j)(1).

The committee consensus was to strike “except on chimneys” from the first sentence of subsection (j)(1) as follows:

(1) When ladders are used to ascend to heights exceeding 20 feet (~~except on chimneys~~), landing platforms shall be provided as follows: for each 30 feet of height or fraction thereof, except that,

Subsection (j)(1), Exception 1.

The committee consensus was to strike “underground mines” so that Exception 1 would read as follows:

Ladders on chimneys, in underground mines, those used primarily in construction operations, fire escape ladders, and ladders equipped with treads.

Subsection (j)(1), Exception 2.

The committee consensus was to delete the reference to smoke stack ladders and to replace the reference to belts and full body harnesses with “personal fall protection equipment” as follows:

Ladders on high-voltage transmission towers, ~~smoke stack ladders,~~ water tower ladders and similar fixed ladders on permanent installations which are used either infrequently or for emergency only provided the employee who uses the ladder is supplied with and wears an approved personal fall protection equipment ~~belt full body harness, with safety lanyards straps attached,~~ which can be utilized if a rest period is required.

Subsection (j)(1), Exception 3.

The committee consensus was to add a new Exception 3 as follows:

Underground mines as covered by the Mine Safety Orders.

Subsection (j)(3).

The committee consensus was to delete the last sentence of the proposal as follows:

(3) All landing platforms shall be equipped with guardrails and toeboards, so arranged as to give safe access to the ladder. Platforms shall be not less than 24 inches in width and 30 inches in length.

~~Walkways, catwalks or work platforms may function as a landing platform providing they are~~

~~**at least 24 inches wide (measured perpendicular to the ladder rungs), from the guardrails. Cage back guards shall extend to the guardrail as required by Section 3277(g)(4).**~~

Subsection (m). Ladder Safety Systems.

The committee consensus was as follows:

Ladder Safety ~~Devices~~ Systems. Ladder safety ~~devices~~ systems may be used on **tower, water tank, and chimney** ladders over 20 feet in unbroken length in lieu of cage protection. **No A landing platform shall be required ~~for every 150 feet of travel~~ in these cases.** All ladder safety systems ~~devices such as those that incorporate life belts, friction brakes, and sliding attachments~~ shall ~~be designed and installed in accordance with ANSI A14.3-2002, Section 7, Ladder Safety Systems, which is hereby incorporated by reference.~~ meet the design requirements of the ladders which they serve. [See subsection (c).]

8. Economic Impact.

The Chair explained to the committee that an important and required part of the rulemaking process is the identification of the fiscal impact of the proposed rulemaking, and he asked the committee members for their assistance.

The Division opined that there are no new requirements; merely clarification of existing rules, thus there is no fiscal impact. No other comment was received.⁴

9. Conclusion.

The Chair reviewed the rulemaking process with the committee and stated that committee members will receive a copy of the meeting minutes, along with a copy of the final consensus proposal within 2-3 months. They will have an opportunity to comment on them before he moves forward with preparation of a formal rulemaking proposal. The Chair noted that although consensus on the proposal was achieved, there will be additional opportunities for public comment. A formal rulemaking proposal will be noticed and there will be a 45-day public comment period, concluding with a public hearing. Anyone may attend the public hearing and provide oral comments. Changes may result from public comment and/or during the review process. If any substantive changes are made, there will be one or more additional 15-day periods for public review and comment. After that it will go to the Board for adoption at a Business Meeting. After adoption by the Board, the proposal will go to the Office of Administrative Law (OAL) which will have 30 working days to review it for compliance with the Administrative Procedures Act. Finally the proposal will be filed with the Secretary of State and, unless otherwise specified, will become effective (enforceable) 30 calendar days thereafter.

The Chair noted that Federal OSHA Region IX will be sent the proposal concurrently with its transmittal to OAL, and Federal OSHA has been more actively reviewing our proposals of late. He estimated that the proposal probably won't make it through the process of public comment, hearing, adoption, review and filing until sometime in 2009.

The Division provided a concluding comment. Mr. Leahy added a supplemental /footnote comment that he felt the proposal did not address short ladders at elevated locations as shown in Figure 11 [*Ed note: this is the same as 29 CFR 1910.27, Figure D-9*]. He opined that "short" should be retained in Figure 11 – "Short Ladders at Elevated Locations" because there is an increased hazard to the worker at elevated locations and that he felt the current proposal could be misinterpreted to only require cages for ladders of

⁴ Although a Division representative speculated earlier in the day that there may be a number of old, non-conforming ladders in existence at refineries, a representative of the petrochemical industry did not attend the advisory committee, although they had been invited. Thus no feedback was received on the extent of the problem or the possible economic impact to that industry.

more than 20 feet. The Chair indicated that he would take this under advisement. *[Ed note: Chair has reviewed this issue and is of the opinion this is already covered by Section 3277(g)(1) and by figure 11]*

The Chair thanked the committee members for their attendance and adjourned the meeting at 1:00 p.m.