

INDUSTRIAL TRUCK ASSOCIATION

ITA SUGGESTIONS FOR PROPOSED AMENDMENTS TO GENERAL INDUSTRY SAFETY ORDERS CONCERNING INDUSTRIAL TRUCK STANDARDS, USE OF SEAT BELTS, AND SIGNALERS

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

ADVISORY COMMITTEE MEETING

January 31, 2008

TOPIC 1: INDUSTRIAL TRUCK STANDARDS

The proposal, which ITA supports, is to update the references that refer to out-of-date ANSI or ASME standards. Our only comment concerns the standard for industrial crane trucks, identified as ANSI/ASME B46.7 (should be B56.7) in §3650(a)(2). ASME B56.7 was withdrawn on July 1, 2007 and no standard has superseded or replaced it.

TOPIC 2: USE OF OPERATOR RESTRAINT SYSTEMS

The proposal is to add the following sentence after the first sentence of §3653: “A seat belt shall be used when driving an industrial truck equipped with rollover protection.” ITA’s suggestion is to modify this sentence to the following: “When provided with the industrial truck, an operator restraint system shall be used.”

ITA strongly agrees with the requirement that operator restraint systems be used when driving industrial trucks. We recommend the phrase “operator restraint system” instead of “seat belt” because it is less limiting or design restrictive. It also recognizes that assisting the operator from exiting the truck in a tipover typically involves not just a physical restraint (which is usually a seat belt but would not have to be), but also warnings and instructions--*i.e.*, a *system*.

Perhaps a more important concern we have with the proposal is the use of the phrase “rollover protection,” which is usually associated with a structure known as “ROPS.” We believe that use of this terminology will confuse some employers and employees as to whether the requirement applies to them. Eliminating this possible confusion would avoid any doubt about whether industrial truck operators are required to use the operator restraint systems, including seat belts, which have been provided on their industrial trucks.

The confusion we are concerned about arises from the ambiguities that exist among the concepts of “rollover protection,” “ROPS,” and “overhead guards.” While industrial trucks have overhead guards that might theoretically play some role in preventing an industrial truck from rolling over, the vehicle’s mast is probably the primary factor preventing rollover. The point is that overhead guards serve a different purpose from ROPS and are not considered to constitute ROPS. (In fact, “ROPS” and “Overhead Guard” are defined separately in §3649.) As noted in

the proposed decision dated July 19, 2001, ROPS as described by the Petitioner is not used or needed on industrial trucks. As the Board staff stated,

Data show that tipping over of forklifts is a common hazard in forklift operations and that these accidents are generally caused by operator error. Data also show that the forklift, when tipping over, is prevented from completely rolling over by both the forklift mast and the overhead guard when present. Because of this finding, *the Board staff does not support the recommendation to require ROPS on forklifts* (emphasis added).

Put simply, ITA's concern is the possibility that users or employers will equate the term "rollover protection" with the existence of ROPS and conclude that the requirement to use an operator restraint system does not apply because the industrial truck does not incorporate ROPS. Such an interpretation would, of course, defeat the purpose of the amendment.

Operator restraint systems have been a standard feature of sit-down counterbalanced forklifts for over twenty years, since the early-to-mid 1980's, and the industry long ago completed a major retrofit campaign to address those older units that had not been originally equipped with the systems. Moreover, U.S. OSHA issued an enforcement memorandum over eleven years ago, on October 19, 1996, in which it stated: "OSHA's enforcement policy relative to the use of seat belts on powered industrial trucks is that employers are obligated to require operators of powered industrial trucks which are equipped with operator restraint devices or seat belts to use the devices." Thus, we believe that virtually sit-down counterbalanced trucks now have operator restraint systems and it has long been understood by everyone in the industry that industrial truck operators must use those systems. ITA believes it is very important to avoid any development that could create any doubt about that requirement.

While some employers and employees may interpret the new sentence as intended, which obviously is to *reinforce* the requirement to use operator restraint systems, others may conclude that the requirement does not apply because their industrial truck does not incorporate rollover protection in the form of ROPS. Throughout the industrial truck industry, as seen in safety standards, training programs, and operators' manuals, industrial trucks are known to employ overhead guards, not ROPS. As the Board staff noted, and as also seen in the previously referenced U.S. OSHA enforcement memorandum on the use of seat belts, the hazard scenario of concern is not "rollover," but rather "tipover." For example, in Appendix A to U.S. OSHA's operator training rule, 29 C.F.R. §1910.178(l), there is an extensive discussion of the stability of powered industrial trucks in which there are repeated references not to "rollover," but to "tipover." While one can find instances where the term "rollover" is used in connection with industrial trucks, invariably the term is applied to the phenomenon where the forklift falls over ninety degrees and then comes to rest—*i.e.*, a classic "tipover."

Thus, the industrial truck community of manufacturers, users, regulators and standards developers has long been focused on tipover, not rollover and ROPS. Because of this, there is a real possibility that some employers and employees will conclude that an industrial truck is not “equipped with rollover protection” because it is not equipped with ROPS. At a minimum, the ambiguity of the language would create enforcement problems if employers advanced this interpretation. Indeed, in the 2001 proposed decision itself, the proposed new requirement is summarized as “[r]equiring the use of an operator restraint system *when a ROPS equipped forklift is being used* (emphasis added).” This statement is not only in conflict with the proposed decision’s earlier statement that ROPS should not be required on forklifts, but is also the best evidence of how readers may naturally equate “rollover protection” with ROPS. The correct understanding—that industrial trucks do not roll over and that overhead guards are *not* ROPS—will be lost on most readers.

A simple requirement stating, “When provided with the industrial truck, an operator restraint system shall be used,” will avoid any misunderstanding and foster greater compliance.

TOPIC 3: USE OF SIGNALLERS

The proposal is to add the following at the end of the second sentence of §3650(t)(11):

A signaler shall be used for loading dock operations when the load being carried obstructs the driver’s view and the driver is unable to determine whether the truck or trailer being loaded has departed or pulled away from the loading dock. When a signaler is required, the driver shall move a load only on a signal from the signaler, who shall use well understood hand signals or other effective means of communication to direct the movement of the industrial truck.

ITA has some uncertainty about this proposal. First, there is a significant discrepancy between the discussion of the need for a new requirement and the wording of the proposed requirement itself. In the July 2001 proposed decision, the concern with dock operations is described as “an inherent danger of forklifts running into persons or objects during the forklift loading and unloading phase, when the objects that are being loaded or unloaded block the view of the operator.” The proposal, however, contemplates a situation where the driver runs the risk of driving off the dock because the truck or trailer has pulled away and the forklift operator is unaware of the departure because his forward visibility is completely obstructed by the load. These are completely different scenarios that would need to be analyzed separately. In these suggestions, we assume that the purpose of the proposal is to address the second scenario, *i.e.*, an off-the-dock accident in which the forklift operator did not realize that the truck or trailer was no longer there.

Subject to this understanding about the purpose of the proposed language, ITA is reluctant to support it without some modifications. Our primary concern is that the requirement could lead employers and employees to believe that dock operations in which the forklift operator carries such a large load that he is unable to determine whether the truck or trailer is at the dock are acceptable routine operations so long as a signaler is used. While there may be unusual and isolated tasks where the forklift operator's view is obstructed to such an extent that he cannot see any part of the truck or trailer, and where the use of a signaler would therefore be appropriate, we believe that these should be exceptional circumstances and that any requirement should make this point clearly.

There is no question that there are far too many off-the-dock accidents. Some of these are caused by "trailer creep" or "dock walk" or a similar phenomenon whereby the trailer gradually separates from the dock due to the repeated loading caused by the forklift as it moves into and out of the trailer. These would not be instances where the forklift operator is unable to determine that the truck or trailer had "departed," however, and they would not be appropriately addressed by the use of spotters or signalers, but rather by using the proper trailer restraining means and by repositioning the trailer when necessary.

There are also instances of "premature departure," where the truck driver is unaware that the loading process is still underway and pulls the trailer away from the dock while the forklift is partially in the trailer. The cause of this type of accident, however, is not the forklift operator's obstructed visibility, but rather the truck driver's lack of awareness. A spotter or signaler for the forklift operator would not be relevant to this hazard.

Thus, it would seem that the instances where the forklift operator is unaware that the truck or trailer has departed *because his vision is obstructed by the load* will be a very rare subset of all off-the-dock accidents. Indeed, it is somewhat hard to imagine that a forklift operator whose vision is so completely blocked that he cannot even ascertain the presence of the truck or trailer would nonetheless proceed to drive the forklift over the edge of the dock under the assumption that the truck or trailer was present. For one thing, §3650(t)(13) already requires, "If the load being carried obstructs forward view, the driver shall be required to travel with the load trailing."¹ While this precaution may not be available in many trailer operations, there are also various visible and audible signaling systems in common usage whereby the truck driver determines whether it is safe to pull away and the forklift operator determines whether it is safe to enter the trailer. These systems, which often use a light system akin to ordinary traffic lights,

¹ It would be more accurate to substitute "operate the equipment" in place of "travel" in this sentence. The concept of "travelling" in an industrial truck usually denotes moving a relatively long distance, whereas "maneuvering" refers to moving a shorter distance as part of performing a job. Using "operate the equipment" would make the requirement clearer because it would cover both situations.

can be effective even when the forklift operator's forward view is obstructed by the load. There is usually also the option to reduce the size of the load to increase visibility.

Thus, ITA questions whether it is an appropriate practice to continually perform a trailer loading operation with the forklift operator's visibility so severely limited that it requires a signaler to tell him that the trailer is no longer present. In other words, even with a signaler, continually operating an industrial truck without forward visibility creates a precarious situation. We are also mindful that increasing the number of personnel at a dock operation can lead to more crowding, confusion, miscommunication and risk.

For these reasons, we believe that it might be best simply not to act upon this proposal. In the rare situation where the forklift operator cannot determine whether the trailer is present, whether by seeing it or by using some established signaling system, it would seem that the forklift operator would seek assistance rather than driving blindly off the dock—in other words, the proposed requirement seems to be mostly common sense and should not be necessary. In the meantime, there would be no implication that driving blind in this fashion is an acceptable routine operation.

If the Advisory Committee decides to act upon this proposal, we believe that the proposal should make it very clear that the need for a signaler when the forklift driver's forward visibility is completely blocked should be limited to exceptional situations and should not be part of a routine operation. A possible approach might be as follows:

(11) In routine or continuous loading dock operations, the driver shall not carry loads which completely obstruct the forward view when carrying such loads prevents the driver from determining whether the truck or trailer being loaded has departed or pulled away from the loading dock. When such operations are necessary, a signaler shall be used. When a signaler is required, the driver shall move a load only on a signal from the signaler, who shall use well understood hand signals or other effective means of communication to direct the movement of the industrial truck.