

**OCCUPATIONAL SAFETY  
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**Industrial Trucks Advisory Committee  
To Consider Revisions to Sections 3650 and 3653  
Use of Seatbelts with ROPS and Use of a Signaler****January 31, 2008****Meeting Minutes****Committee Members in Attendance:**

Cathy Dietrich, OSHSB  
Mark MacDonald, Pacific Maritime Association, San Francisco  
Patrick Bell, Division of Occupational Safety and Health Research and Standards Development  
Chris Merther, Industrial Truck Association  
Judy Freyman, ORC Worldwide  
Larry McCune, Division of Occupational Safety and Health  
Joel Foss, Division of Occupational Safety and Health  
Jeff Reynolds, Pacific Coast Supply  
Jeff Puthuff for Elizabeth Treanor, ET Associates  
Bruce Wick, California Professional Association of Specialty Contractors  
Bo Bradley, Associated General Contractors of California  
Steve Johnson, Associated Roofing Contractors of the Bay Area Counties  
Guy Prescott, Operating Engineers Local No. 3  
Jose Mejia, California State Council of Laborers  
Daniel Leacox, Greenberg Traurig, representing California Landscape Contractors  
John McCullough, ABD Insurance Brokers  
John Mohns, Benchmark Landscape Companies  
Dan Bushgen, Pacific Coast Companies, Inc.  
Bob Burba, Pacific Coast Supply, Inc.  
Rick Herington, American Civil Constructors  
Mark Horr, Sacramento County Safety  
Peter Robertson, California Department of Transportation  
Kevin Bland, Grando Bland, APC, representing Residential CA Framing Contractors Assn.  
Marti Fisher, California Chamber of Commerce

## **Agenda**

- I. Introduction
- II. Review of Petition 429 and proposed amendments  
Specific hazards and control measures to be discussed:
  - Update references to out-dated ANSI standards for industrial trucks and industrial tow tractors in Section 3650.
  - Use of seat belts when driving an industrial truck equipped with rollover protection.
  - Use of a signaler 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.
- III. Wrap up and next steps

The Advisory Committee Meeting started at 10:00 a.m.

### I. Introduction:

Mr. Mitchell reviewed the petition process for those members of the committee who may be unfamiliar with it. He also explained the relationship between the California Occupational Safety and Health standards and the counterpart federal standards, and explained that the Board uses advisory committees for controversial issues or technically complex issues. He noted that Board staff can choose to accept, reject, or modify the recommendations of the advisory committee. If staff chooses to reject or modify the consensus recommendation of the advisory committee, the members of the advisory committee will be informed before the proposal goes to public hearing.

### II. Review of Petition 429 and proposed amendments

Mr. Mitchell summarized the original petition's background, history, and intended purpose. He then asked for comments regarding updating the ANSI references.

Mr. Mitchell was asked whether there is a link on the internet to the ANSI standards from the Title 8 standards. Mr. Mitchell responded in the negative.

Mr. Wick asked if Mr. Mitchell had taken in to consideration the Industrial Truck Association (ITA) comments regarding the withdrawal of the industrial crane trucks. Mr. Mitchell responded positively.

Pat Bell stated that the fact that a standard had been withdrawn should not affect the fact that it is referenced in the standard, because it is likely that a lot of the same equipment is still in use, and the regulated public would still need access to the information in order to be able to comply with the standard. He stated that if there were questions, the regulated public could contact the Division.

Mr. Mitchell explained that when the Board amends a standard to require that equipment be manufactured in compliance with the most recent consensus standard, the amended CalOSHA standard must reference the date it becomes effective, reference the consensus standard by title and date, and indicate that the provision only applies to equipment manufactured after the effective date of the amended standard. This proposal would reference the most recent consensus standards for industrial trucks which are those developed by ANSI and the Industrial Truck Standards Development Foundation (ITSDF), i.e. the ANSI/ITSDF B56 standards. In a separate subsection, the proposal would also require that industrial trucks manufactured before the effective date of the amendment shall be manufactured in accordance with the applicable consensus standards at the time of manufacture, which might be either the new ANSI/ITSDF B56 standards or previous editions of the ANSI B56 standards.

Joel Foss asked whether the ANSI B56.6 standard requires that rough terrain forklifts have roll over protective structures (ROPS). Chris Merther responded that rough terrain forklifts with vertical masts do not require ROPS in the B56.6 standard because it is nearly impossible for the truck to fall more than 90° because it would be stopped by the mast. He said this is not the case for rough terrain trucks with extendable booms and side-mounted cabs, and with piggy back trucks which are not counterbalanced and have shorter vertical masts. He confirmed that B56.6 does require that rough terrain variable reach trucks with side-mounted cabs be equipped with ROPS.

Mr. McCune asked that if there is a ROPS, shouldn't the operator wear a seatbelt? Mr. Merther responded that a seat belt should be worn in any truck that has a seatbelt.

Mark MacDonald asked whether the current forward-looking standards required retrofitting seatbelts on trucks manufactured under a previous version of the standard which did not require them at that time, and if there were a retrofit requirement, how would owners be notified? Mr. Bell responded that trucks would be required to conform to the ANSI standards in effect at the time the truck is manufactured. Mr. Merther stated that the existing standards do not require retrofits.

Mr. Foss asked whether seatbelts and torso restraints are equivalent or complementary and whether one or the other or both are required. Mr. Mitchell requested that this discussion be tabled until the committee discussed restraints and asked whether there were any other comments or questions regarding updating the ANSI standards.

Mr. Mitchell then asked for comments regarding the use of signalers.

Jeff Puthuff asked whether closed circuit television or mirrors could be used in lieu of hiring another person as a signaler.

Judy Freyman stated that many companies that operate loading docks and consumer product companies use dock locks in addition to chocking and other restraints and have found them to be effective. The concern is that if the language stands as written, there may be an interpretation that they need to have an extra person at the point of entry for the industrial truck, and there is

concern that that will create congestion and might create an additional hazard. She asked that the language be amended to state that dock locks would be acceptable in lieu of a signaler.

Mr. Wick asked for clarification of what exactly was under discussion, as there appeared to be several related issues in Ms. Freyman's comments.

Mr. Mitchell agreed and asked for comments about the necessity for any additional requirements added to the forklift standards regarding a signaler to direct a forklift operator when the operator's view is obstructed by the load.

Mr. MacDonald asked that the proposal be clear as to the meaning of the term "docks," and stated that PMA defines "dock" as a pier or a wharf as opposed to a container freight station elevated dock that trucks back up to. He further stated his agreement with Mr. Puthuff that technological means such as closed circuit television or mirrors would be preferable to using a person to act as a signaler, as the use of such means would present less of a hazard than having a person on the ground around machinery.

Jose Mejia stated that the practicality of technological means as opposed to a human signaler would depend on the nature of the environment.

Mr. Prescott stated that the dock lock systems have a flashing light system for both the driver and the operator, so as long as the operator can see the lights, he knows that the dock lock is still engaged and that the truck is still there. In his opinion, that would eliminate the need for the use of a signaler. He went on to express his belief that there is already an existing requirement that there be a signaler when the driver is unable to see past the load in any condition, not just at the dock.

Mr. Mitchell responded that Section 3650(t)(11) states, "The driver shall slow down and sound the horn at cross aisles and other locations where vision is obstructed, if the load being carried obstructs forward view the driver shall be required to travel with a load trailing." He further stated that Section 3650(t)(12) states, "Operators shall look in the direction of travel and shall not move the vehicle until certain that all persons are clear." He indicated that the standard goes on to state that the operator is required to look toward and keep a clear view of the path of travel.

Mr. Bell stated that such language could be problematic when, for instance, a large unit of boxes is being loaded on a pallet onto a truck. As the operator approaches the truck, he has a pretty good view of what is going on in the vicinity of the truck. For the few moments when he is lining up on the truck to place a palletized unit on the truck, he may not be able to see immediately in front of the truck.

Mr. Foss stated the Division could provide accident information demonstrating the necessity for a signaler or for the use of a mechanical system such as a dock lock, if necessary. He stated that such accidents are an ongoing problem.

Mr. Mitchell stated that there is some confusion in the proposal under consideration. He stated that the petition was unclear as to the exact role of the signaler, and whether the signaler would signal the forklift operator. He expressed his belief that a person signaling the forklift operator is not the most effective method.

Mr. Wick stated that the necessity of vision is not the issue. The important thing is that the presence of a person in the dock area while the forklift is being operated is a hazard. He further stated that the issue of “creep” and premature departure does need to be addressed by the committee. He suggested the issue of obstructed vision be discarded in favor of the hazard of pulling away from the dock prematurely. The committee agreed to this suggestion.

Mr. Mitchell then asked for suggested language to address the issue of early departure and/or trailer creep.

Mr. Bell asked Mr. Mitchell about language that was suggested when the petition was first evaluated in 2001. Mr. Mitchell read language proposed for Section 3336, which had been part of the Division’s evaluation of the petition. Section 3336 is entitled “Loading Dock Operations,” and it currently states, “Trucks or trailers shall be secured from movement during dock loading and unloading operations.” The proposal was to strike that language in favor of two subsections (a) and (b), as follows:

- (a) Trucks, trailers, and rail cars boarded by powered industrial trucks during loading dock operations shall be made safe against unintended movement as specified in subsections 3650(t)(22) and (23).
- (b) The employer shall establish and enforce a system to prevent trucks, trailers, or rail cars from pulling away from docks before the loading or unloading operation has been completed.

Section 3650(t)(22) states, “Vehicles shall not be driven in and out of highway trucks and trailers at loading docks until such trucks or trailers are securely blocked or restrained and the brakes set.”

Mr. MacDonald stated that the language needs to be specific to operations where the industrial trucks board the railcars, and that would have no meaning at all for railcar operations in shipyards.

There was some discussion as to whether the language was limited by scope because it appears in the industrial truck section, but Mr. Mitchell clarified that Section 3336 is in Article 11, vehicles, traffic control, flaggers, barricades, and warning signs. (Note: Later in the meeting, Mr. Mitchell said he had mis-identified the location of the section and that it was in Article 7, not 11).

Bo Bradley stated it was her understanding that the driver of the forklift determines when he is done loading and when it is safe for the truck driver to move the truck. There was general

disagreement to this statement. She then asked whether there should be language identifying who indicates that it is okay for the truck driver to drive away.

Ms. Freyman responded that that language was more pertinent to operating procedures than to loading docks.

Mr. Prescott asked whether the language required the employer to develop a plan or procedure. Mr Mitchell responded by reading, “The employer shall establish and enforce a system to prevent trucks, trailers, or rail cars from pulling away from the dock before the loading or unloading operation has been completed.”

Mr. Foss stated that that language allows for some flexibility as to what system might be used, whether it is an individual with flags or the dock lock lights or a flag attached on the back of the truck or the roll-up door. There is any number of approaches to providing a signal as to when it is or is not safe to pull the truck from the dock.

Ms. Freyman commented that several companies used up to three different restraints—the hand brake locks, the dock locks, and chocks—because any one of the restraint systems alone could fail. She asked if the language, as it is presently proposed, would require the lowest level of restraint, whether or not there is a failure rate assessment.

Mr. Foss responded that although no failure rate assessments had been performed, if a system fails, that is an indication that there is something ineffective in the procedures that are in place. He stated further that leaving the language as it is would allow for the least effective of the methods to be used.

Mr. Wick stated that the current standards as written are written to prevent “trailer creep,” but there is no California requirement for any kind of system to prevent the situation where the “yard dog” or an out-of-state driver decides to leave while the forklift is headed out over the dock. The proposal has subsections (a) and (b) that address those hazards, but currently there is no requirement for having a system to ensure that the trailer stays in the dock.

Mr. Mitchell stated that the language was not in effect as yet; it was simply proposed language.

Mr. Wick asked how an independent trucking firm that controls the jobsite can enforce that someone else’s employee, or an independent truck owner/operator, complies.

Mr. Foss responded that there may be a situation in which a driver that does not work for the company decides to leave, but at that point the company has to restrict the forklift from going over the edge, whether that is with the use of a dock lock or another system.

Mr. Mitchell stated that it appeared to be an issue of what’s reasonable for that employer. He stated that it would be difficult for the employer to prevent it from ever happening, but if there is a restraint system in place, that employer would be in compliance.

Jeff Reynolds stated that Pacific Coast Supply had a couple of incidents in which a truck driver pulled away while being loaded by a forklift, and the truck pulled the forklift over onto its mast. The forklift operators had no idea that the truck was leaving. In the wake of these incidents, Pacific Coast Supply established rules requiring that the trucks being loaded or unloaded be chocked, blocked, and the driver is required to remove the keys from the ignition and stay out of the cab until the loading or unloading operations are completed. Since those procedures have been established, there have been no further incidents.

Mr. Foss commented that it sounded like an effective system.

Mr. Reynolds went on to express his opinion that there should be some accountability for the truckers or their employers regardless of where they are conducting their business.

Mr. Wick stated that Mr. Reynolds' comment was a good example of a situation in which the third-party people have to abide by the terms and conditions of the loading or unloading site.

Mr. Mitchell stated that the standards might not apply to the independent truck owner/operator.

Mr. MacDonald asked again that the committee keep in mind the marine container terminal that uses top handlers, side handlers, and powered industrial trucks to take the container off the chassis and put the container onto the chassis. He asked that when the time comes to craft the language, that it is not written so broadly as to cause unintended consequences to shipyard employers.

Mr. Foss asked about two recent fatalities on the docks that had involved trucks moving.

Mr. MacDonald responded that there had been one person standing as a pedestrian on the docks where a truck was making a turn, and he was run over. The second fatality was with a lasher onboard ship; the lasher was crushed between the ship's structure and the container that was being hoisted. He stated that neither of those fatalities was in the same context as the subject of the advisory committee with the trucks driving away. He went on to urge caution once again, because the words "chock," "block," and "powered industrial truck" have much broader definitions than the focused discussion of the advisory committee, and when it comes out in regulation, it may have unintended consequences for shipyard employers.

Mr. Mitchell stated that the proposal may be both too broad and not broad enough. He stated that Mr. MacDonald was referring to an operation that may not be a loading dock operation. Mr. Mitchell further stated that the primary issue seems to be the forklift falling off the truck or between the dock and the truck.

Mr. MacDonald cited Mr. Reynolds' example of a truck being loaded on flat ground and driving away, pulling the forklift over.

Mr. MacDonald then stated that there are operations where the forklifts do go into the trailers from a loading ramp and in some cases from a loading dock, but most of the loading and unloading is done on flat paved surfaces.

Mr. Prescott asked whether changing the language to indicate that the employer shall develop a policy or procedure that will eliminate the hazards of the truck moving while being loaded or unloaded would be sufficient. He stated that because the use of powered industrial trucks is so widespread, it should be up to the employer to determine what is best for a particular workplace and have a written policy or procedure that addresses it.

Mr. Mitchell asked for clarification of Mr. MacDonald's operations. He asked whether there was no system to prevent the truck driver from pulling away and whether or not there was a hazard if they were to do that, in the context of shipyard operations.

Mr. MacDonald responded that the trucks are all lined up to get their containers. Whether it is under a gantry crane, a rubber-tired gantry, a side-pick, or a top-pick, there is an informal "toot" system in which the operator will sound the whistle briefly once for the truck to stop, twice to back up, three times to indicate when the truck is clear and can go.

Kevin Bland, representing the California Framing Contractors Association and the Residential Contractors Association, stated that because of the unique nature of the shipyard operations, it seemed that having a signaler standing outside would be more of a hazard than staying in the truck and keeping it trim and moving along. He stated that from that, it appeared that the more fundamental problem would be the definition of the word "dock" to differentiate between a loading dock and a shipping dock, which are two very different uses.

Mr. Mitchell quoted the current requirement in Section 3650, "vehicles shall not be driven in and out of highway trucks and trailers at loading docks unless such trucks or trailers are securely blocked or restrained with a brake set." He stated that that requirement does not apply to the shipyard operations, but it would not address the hazard when the forklift is on the ground loading and the truck drives away, pulling the forklift over.

Mr. McCullough stated that he had some of the same problems where the truck pulled off and tipped the forklift over. However, many times in the fruit processing business, a truck or a set of doubles will come in and four forklifts will converge on it. He does not want the driver out of the truck in that situation because it would be hazardous to the driver. He stated that he is unsure of how to make these operations completely safe.

Mr. Wick asked Mr. Mitchell to reread the relevant sections of the proposal. Mr. Mitchell complied by rereading proposed Section 3336, Loading Dock Operations.

Mr. Reynolds asked whether there was a clear definition of the term "dock." Mr. Mitchell responded that that was the problem.

Ms. Freyman asked whether the term “loading dock” could be removed, so that the section would refer simply to loading and unloading operations. Mr. Mitchell responded that the title would have to be revised or the provisions relocated to another standard.

Rick Herington stated that the key phrase in the section is “boarding,” so the definition of “dock” does not need to be addressed there because there are different loading applications such as on the ground that is not boarding the vehicle in which it is being loaded. He stated that the way Section 3336 is written it is specifically addressing when the forklift is boarding some vessel that is being loaded, whether it is a truck, a trailer, or a railcar.

Mr. Bland expressed agreement with Mr. Herington’s statement, but he stated that subsection (b) is too broad.

Mr. Bell stated that the whole purpose of the proposal is to be careful, and if the employer has an effective system in place, that achieves the aim of the proposal.

Mr. Mitchell stated that the subject under discussion appeared to be trucks, trailers, and railcar loading operations and not loading dock operations.

Mr. Puthuff asked whether the word in the section was boarded or bordered. The response was “boarded by.”

Mr. Herington expressed his belief that the aim of the proposal was to eliminate the turnover from the truck being pulled away from the dock or the vessel being loaded, not necessarily the level ground loading operation, but specific to the boarding of vessels. He stated that the employer is to come up with a system when there is the boarding of a vessel, not the broader spectrum of loading operations.

Mr. Puthuff asked whether the phrase “to prevent trucks, trailers, or railcars from pulling away from the dock” should be amended to apply more broadly, such as changing the term “dock” to “loading area” or “unloading area.” Then it is not necessary to define what dock means.

Mr. MacDonald stated that he was unsure whether the proposal even applies to marine terminals, but if it does, there will be some ways to clear the confusion. If taking away the “dock”, the standard might be too vague.

Mr. Mitchell and the committee reread the relevant sections of the proposal. They found that it is not in Article 11 as previously stated but in Article 7, Miscellaneous Safe Practices. Mr. Foss stated that it is inappropriate to discuss marine terminal loading docks because the items are too broad and other employee representatives are not present. They might have other ideas and it has been an issue for a long time. He believed that the advisory committee should not be discussing operations other than loading dock issues. Mr. Mitchell stated that the International Longshore and Warehouse Union, Local 10 was invited to the meeting but is not present.

Mr. McCune stated that there are lots of loading operations that are not conducted from a loading dock. They are moving trucks or moving cars. Therefore, it is not intended to address all possible loading operations. If just discussing the language of loading dock, the problem would be easier to solve.

Mr. Puthuff agreed with Mr. McCune and thanked Mr. Reynolds for his examples. He believed that talking about loading or unloading away from a loading dock would create more problems. Therefore, the major concern should focus on the hazards of coming off from the loading dock. Mr. Puthuff stated that if there are both loading dock and ground unloading operations at the same location then one system should be able to manage both situations.

Mr. Mitchell asked the committee if they have consensus on identified language to discuss. Kevin Bland suggested that adding the word "intended" after system and before "to" in Section 3336(b), to make it clear that it is a performance standard. Mr. Bell stated that it would not be beneficial to the requirement of prevention. He stated that they should have the system in place and enforce it. Mr. Bell stated that the language should convey that the hazards are a serious manner and cause serious damage. In response, Mr. Bland proposed that the word "effective" should be added before "system". Mr. Bell agreed. There was discussion about replacing "effective system" with "redundant system." There was a comment that a dock lock would be effective on its own and would not require a backup system. There was agreement not to replace "effective" with "redundant." There was discussion about what was accomplished by adding the word "effective". Mr. Bland supported removing the word "effective", and there was general agreement to do so.

After the lunch break, the committee members were given a copy of the proposed changes to Section 3336 that the committee agreed on before lunch. Mr. Mitchell introduced the proposed changes to Sections 3650(t)(33) and 3653(a) regarding seat belts that he developed in response to the petition decision. These proposed changes were distributed to the committee along with the comments received from Mr. Merther on behalf of the ITA.

Mr. Merther stated that most industrial trucks do not have ROPS. The reason is that they would not roll over more than 90 degrees because of the mast or over head guard which is intended to protect against falling objects. In the 80's manufacturers began putting in operator restraint systems to prevent operators from being crushed by the overhead guard supports. He believes that most trucks manufactured in the US use seat belts as the operator restraint system and some of these have additional seat designs that help restrain the operator. He is concerned that the proposal uses the term rollover protection which most trucks don't have. The B56.6 standard requires ROPS for rough terrain forklifts with side mounted operator cabs or extended reach trucks. The only other truck required by B56 standards to have ROPS might be the industrial extended reach trucks which are not in common use in US although some container handles might be classified as such.

Mr. McCune stated that there is confusion among Division staff and the regulated public who try to apply section 3653(a) to industrial trucks with overhead guards. He suggested that if we

wanted to have operator restraint/seatbelt requirements apply to industrial trucks it probably should be in another standard. Mr. Bell recommended putting it in Section 3650.

Mr. Prescott stated that he believed the updated ANSI standards that the proposal references require operator restraints. He suggested that the proposal should require the use of an operator restraint system when it is “supplied” by the manufacturer, rather than when it is “available” because it might be removed. Mr. Bell responded that if the proposal requires the use of seatbelts the employer must ensure the truck is equipped with a seat belt that complies with ANSI. Mr. Mitchell noted that the proposal being discussed is the language provided by the ITA that states, “When provided with the industrial truck, an operator restraint system shall be used.” Since that proposal is not triggered by ROPS it avoids confusion as to what are ROPS. Mr. Bell said that “when provided” would allow an employer to order a truck without a restraint system, but agreed that in that case there might be a violation because the trucks are not manufactured in accordance with the ANSI standards referenced. He recommended simply stating a seatbelt shall be used. Mr. Mitchell asked used with what? Mr. Bell said that is the question here.

Mr. McCune said he understood that Section 3653(a) would apply to the forklifts with extendable booms and that if you wanted something in the forklift standard you could put it in 3650. Mr. Bell and Mr. Prescott agreed that Section 3650 is the appropriate section.

Mr. Mitchell said he proposed an amendment to the seat belt requirement in Section 3653(a) to add, “A seat belt shall be used when driving an industrial truck equipped with rollover protection.” Mr. Prescott said “drive” should be replaced with “operate.” Mr. McCune suggested that issue could be avoided by simply adding “and used” to the previous sentence to require that a seat belt shall be provided and used. Mr. Bell agreed with Mr. McCune and suggested the second sentence is not needed and should be removed. Mr. McCune agreed and said restraint systems should be addressed in 3650. Mr. Bland reiterated that 3653 would apply to the ROPS equipped extendable reach type equipment. And then proposed 3650(t)(33) would apply to all trucks, taking out the ROPS language.

Mr. Mitchell read the latest proposed text for 3653(a), “Seat belt assemblies shall be provided and used on all equipment where rollover protection is installed and employees shall be instructed in their use.”

Mr. Bland questioned whether the employer should be held responsible for an employee who chooses not to use a seatbelt. He said if that occurred on the highway the employee would get the ticket. Mr. Bell responded that 3203 requires employers train and enforce safety procedure. Mr. Bland said that is different than being held responsible when the employee does not do it. Mr. Foss said that if an employee’s independent act can be demonstrated, the employer has a defense. Mr. Bland said that is very difficult to demonstrate. Mr. Mitchell noted that section 1596 already requires that seat belts be provided and used on some earthmoving equipment. Mr. Leacox noted that federal OSHA compliance directive states employers shall require that employees use seat belts. Mr. Mitchell noted that that is only part of the directive which goes on to state that seat belt use should be enforced by citing the general duty clause.

Mr. Wick said it is much more difficult for the employer to enforce seatbelt use at sites where there is no supervision. Knowing when seatbelts are required on different equipment is confusing. Mr. Foss said enforcement staff, when considering issuing a citation, should take into account the amount of control the employer has in a particular situation. He thinks Mr. Bland has a legitimate concern but it is the same with other required safety equipment.

Mr. Reynolds stated that they have been dealing with this issue for years and that one of his employees was killed when his truck rolled over on him. He did not have a seat belt on to protect himself when the accident occurred. He said that accident started a campaign to use seat belts on all forklifts, in the distribution center and at job sites, wherever. He said one of the biggest problems he had was that employees wanted to know where OSHA said that they have to do this. He could only respond by referencing the federal compliance interpretation. He has problems with employee independent acts and in these cases he has won and lost some appeals. They enforce seatbelt use on all forklifts at all sites. It is a personal issue for him and he doesn't understand why there is not already a standard that requires their use. He doesn't think the proposal for operator restraints/seatbelts should apply only to trucks with ROPS because there is a risk of being injured when a truck without ROPS tips over. He said it is ridiculous not to make use of it. Not to make it mandatory.

Mr. Mitchell said that the requirement for operator restraint/seatbelts could be placed in section 3650 and/or 3653. Section 3650 is entitled seatbelts. It is not limited to industrial trucks and does not address operator restraint systems. Section 3650 includes mandatory rules for the operation of industrial trucks. A requirement addressing the use of seatbelts and/or operator restraints could be placed in that section.

Mr. McCune suggested adding 3650(t)(33) to require, "A seat belt or operator restraint shall be used when operating an industrial truck". Mr. Bland proposed modifying the language to state that the employer shall require the use of seatbelts. He stated that the employer should not be held responsible for an employee who does not use a seatbelt when the employer requires that seatbelts be used. Mr. Bland asserted that his proposal would be just as effective as directly requiring seat belt use. Employers would need to have a seatbelt policy in place and enforce it, but they would not be held responsible in those instances that are beyond the employer's control and/or a seatbelt is inadvertently not used. This type of instance should not be black and white.

Mr. Merther stated that there are stand up trucks that have no restraint system. Mr. Bland suggested carving out those types of trucks. Mr. Prescott suggested that instead of carve-outs the proposal should use the language provided by Mr. Merther in the ITA comments, "When provided with the industrial truck, an operator restraint system shall be used."

Mr. Wick stated that he is concerned that many small businesses have only one lift truck. Therefore, he stated that the simpler the language is, the better the compliance will be. He said the proposal should clearly state what is required when there is an industrial truck. Mr. Bland summarized the proposed language, "When equipped with an operator restraint system, the employer shall require seat belts to be used while operating an industrial truck."

Mr. Foss said that Mr. Bland's proposal would not require the use of seat belts. The employer would only need to provide written rules that state seat belts shall be used. Mr. McCune said that is why section 3653(t) was recently amended. So the operator training rules could be enforced. Mr. Foss noted that the head protection standard says hard hats shall be worn - not the employer shall require hard hats be worn. Otherwise there would be lots of IPPs requiring hard hats but employees would not be wearing them. Mr. Reynolds agreed and said that the fall protection standard is similar, and that it does not prevent the employee independent act defense. Mr. Leacox said the Division of Occupational Safety and Health (DOSH) enforcement policy that Mr. Foss described earlier should be explicit in the standard. Mr. Foss said that would mean that an accident investigation of a forklift rollover fatality would be limited to looking at the IIPP to see if it required employees to wear seat belts, and not determining whether seat belts are actually worn.

Mr. Mitchell asked if the committee reached a consensus on the revised language. Mr. Prescott said he liked the ITA language. Ms. Fisher suggested that for clarity operator restraint should be defined in relation to seat belts. Mr. Prescott said that the proposal could be revised to state, "an operator restraint system or seatbelt." Mr. Mitchell stated operator restraint is not defined in the ANSI B56 standards; therefore it would be difficult for the committee to do so. Mr. Merther said it is not defined but it could be something other than a seatbelt that is designed to restrain the operator in the event of a tip over. Mr. Mitchell read section 7.41 of the B56.1 standard which stated the truck shall have an operator restraint device system or enclosure that is intended to assist the operator in reducing the risk of entrapment of the operator's head or torso between the truck and ground in the event of a tip over. Mr. Mitchell read an ANSI interpretation that states that seatbelts are one type of an operator restraint system but they are not the only type and that the standard deliberately leaves it open to the manufacturer to design an effective restraint system.

Ms. Fisher stated that she is not particularly concerned with a definition per se but just concerned that the standard is clearly understood. Some people might be looking for a seat belt. There was general agreement that the proposal should state either "operator restraint system or seat belt" or "operator restraint system such as a seat belt." Mr. Foss suggested using the language from the B56.1 standard that Mr. Mitchell read and that also referred to an enclosure.

First, Mr. Mitchell restated the ITA proposed language, "When provided with the industrial truck an operating restraint system shall be used." Ms. Fisher considered whether to add any of the other examples the ITA referred to, but concluded just adding "or seat belts" was sufficient. Mr. Prescott and Ms. Fischer noted that adding "or seat belt" would help when doing a word search. Mr. McCune suggested adding "by the manufacturer" after "When provided". There was a consensus reached on the following language, "When provided by the industrial truck manufacturer, an operator restraint system such as a seat belt shall be used."

There was some discussion between committee members as to whether the proposed section 3650(t)(33) included retrofits. Mr. Bland said retrofits are not required.

Mr. Puthuff asked whether a truck with an operator enclosure would require a seat belt be used. Mr. Bell said yes, if it was provided by the manufacturer as part of the restraint system. Mr. MacDonald said we had to be careful there, because a tractor may be equipped with an air conditioned cab or enclosure and it is harder to see if a seatbelt is used.

Mr. MacDonald suggested revising proposed section 3336(b) to add “loading” before “dock.” The committee agreed to the change. Mr. MacDonald wanted to add language in 3336(b) to clarify it did not apply when a truck was deliberately not loaded to capacity or completely unloaded. The committee response was that the existing language was sufficiently clear.

Mr. Wick commented that he thought some people will be opposed to the “use issue” and to expect comments during the regulatory process. Ms. Fisher asked what the time line would be for the rulemaking process. Mr. Mitchell responded that he was not sure.

The Advisory Committee meeting adjourned at 3:50 p.m.

Note: The Board anticipates scheduling this rulemaking proposal for public hearing the second half of 2008.