



DEC 16 2008

Thomas Harman, CSP
National Ready Mixed Concrete Association
900 Spring Street
Silver Spring, MD 20910

Dear Mr. Harman:

Thank you for your February 6 letter to the Occupational Safety and Health Administration's (OSHA's) Directorate of Enforcement Programs (DEP). This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any questions not delineated within your original correspondence. You had specific questions regarding clarification of fall protection standards found in Title 29 Code of Federal Regulations as it relates to ready-mixed cement trucks.

Question 1: Drivers of ready-mixed vehicles must climb a permanently attached ladder to a work platform that is also permanently attached to the vehicle. Drivers use the platform to hose down the concrete chute and to inspect the 'slump' (water content) of the concrete. Is additional fall protection required on ready-mixed concrete vehicles when work platforms are equipped with handrails and toe boards?

Reply: In construction, the fall protection requirements in subpart M of the construction standards do not apply to vehicles such as concrete trucks. The definition at 29 CFR §1926.500(b) of a "walking/working surface" excludes "ladders, vehicles, or trailers on which employees must be located in order to perform their job duties." There could, however, be hazardous situations where the general standard for personal protective equipment, § 1926.95(a), or the General Duty Clause of the Occupational Safety and Health Act, 29 U.S.C. § 654(a)(1), could apply.

In general industry, fall protection requirements for open-sided platforms are found at 29 CFR §1910.23(c). In 1990 OSHA published, in the Federal Register, a notice of proposed rulemaking that would make changes to subpart D of part 1910, which includes §1910.23(c). In particular, OSHA proposed to exclude from coverage surfaces that are an integral part of "self-propelled, motorized mobile equipment" other than platforms lifted by powered industrial trucks (proposed §1910.21(a)(1); 55 FR 13396, April 10, 1990). Earlier this year, OSHA published a Federal Register notice reopening the record and requesting comment on several issues, including the proposed exclusion of vehicle platforms. In doing so, the Agency noted that "[e]xisting subpart

D does not exclude such equipment from coverage..." (68 FR 23530, May 2, 2003).

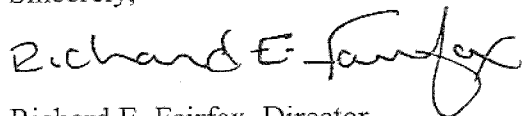
Under the existing standard at §1910.23(c)(1), a guardrail is not required "where there is entrance to a ramp, stairway, or fixed ladder." In view of this currently existing provision, additional fall protection would not be required on concrete truck work platforms that are protected on all open sides by standard guardrails, except at the entrance to a fixed ladder.

Question 2: On vehicles equipped with handrails and toe boards on the platform, does OSHA allow for an unobstructed opening (meaning no chain, bar or similarly attached device) for entrance/exit of a driver to/from the platform?

Reply: See reply to question 1.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov/>. If you have any further questions, please feel free to contact the Office of General Industry Enforcement at (202) 693-1850.

Sincerely,



Richard E. Fairfax, Director
Directorate of Enforcement Programs