



**Unified Fall Protection
Virtual Stakeholder Meeting Summary**
March 23, 2022 1:00 p.m. via Zoom

Washington State Department of Labor & Industries (L&I) Staff present:

Carmyn Shute, DOSH Administrative Regulations Analyst/Project Manager
David Gaw, DOSH Management Analyst
Erich Smith, DOSH Construction Technical Specialist
Cathy Coates, DOSH Administrative Regulations Analyst
Teri Neely, DOSH Technical Services Safety Program Manager
Allison Drake, DOSH Policy/Stakeholder Engagement Manager
Ryan Allen, DOSH Standards and Technical Services Program Manager

Attendees:

49 Pre-registered attendees with an average of 31 attendees present.

Summary:

Meeting called to order at 1:02 p.m.

DOSH staff provided introductions for presenting panelists and other staff, general virtual meeting procedures and etiquette.

Presentation: Upcoming changes to the Unified Safety Standard for Fall Protection, Erich Smith.

Discussion:

DOSH safety and health specialist provided an overview of the discussion draft; including the purpose, rationale, and development of the draft language. The presentation included sources for language, including corresponding federal regulations or Washington Administrative Code.

Following the presentation of the discussion draft, the DOSH safety and health specialist answered the questions submitted by attendees (submitted via Zoom Q&A application).

Question and answer session:

Question: *Can I have today's meeting materials sent to me? (x13)*

DOSH Response: Yes, the meeting materials will be emailed to everyone attending today.

DOSH Safety and Health Specialist posed question to attendees:

"Should we keep safety watch with proposed changes?"

Attendee response:

No responses directly related to question posed.

Question: *How can regular periodic maintenance be both infrequent and temporary? E.g. changing an HVAC filter on a periodic basis quarterly, yearly, etc?*

DOSH Response: If you look at the definition, good question, sometimes when it comes to definitions, we have to take from what makes sense to what we think it means to how it is actually defined. Whatever dictionary we chose to use, I usually use Miriam Webster, may find 8-10 definitions of same term. That gets challenging. Which do we use? Don't want to arbitrarily have to pick. So we would use the definition the standard uses, "task or jobs performed only on occasion when needed," like an equipment breakdown on an occasional basis or on sporadic or irregular intervals. So if you look at both infrequent and temporary, so the first, "performed only on occasions," that fits, and, then, then, "temporary," "duration of the task performed is brief or short." Only on occasion or short-term task fits by these definitions. If we go through Miriam Webster dictionary, array of definitions for same term. Part of the rationale for using those, if we also, Federal Register does discuss, not only defines those terms, and has discussions in there when it can't be used and when it can/can't and what situations apply to it. "Temporary or brief" or short tasks generally includes those the worker is able to perform in less time than it takes to install or set up conventional fall protections. That is part of OSHA's rationale for using that. "Infrequent" tasks includes work activities such as annual maintenance or servicing of equipment, monthly or quarterly replacement of batteries, or HVAC filters, and responding to equipment outages or breakdown. Goes back to the definition of how it is being used. In addition, using those definitions allows us to gather explanatory allowances for use of the terms from the Federal Register, which helps clarify.

Question: *Is there Safety Data to support the removal of a safety watch? I think it should be based on data, if the data shows an increase in safety by removing the option for a safety watch, then it should be considered.*

DOSH Response: OSHA's position with that; previously, OSHA's position was that, it is a system they do not deem as effective as the systems they have under their construction standard. Because OSHA does not have that provision, any provision that would be similar to that would be their safety monitor system, which can only be used in certain situations. That is how they deem not as effective as. Because their monitor could be considered more effective than our "watch." Mostly because there are, no warning-lines required. However, OSHA Standard, under 29 CFR 1910, is written a bit different now. OSHA uses something called a designated area, which is similar to a warning line system, and does not necessarily not allow it, but what they would not allow it to be used in a construction application. Comes down to, L&I must have standards that are at least as effective as OSHA, on a provision-by-provision basis; if reviewing like that, it does make sense. Is there data related to falls to show that, not to my knowledge. We have not had an issue with it. Comes down to standards being as effective as OSHA. If you look at data for ten foot versus six, there is data there to show that workers have higher likelihood of serious injury of fall from ten feet versus six feet or four feet.

Question: *Thank you. I see the logic ties for the unique and specific definition within this context.*

DOSH Response: Thank you for your comment.

Question: *With the addition of the exemption, changing HVAC filters is a perfect example of a task that is good for using the safety watch method if the unit is between 15ft - 6ft*

from the edge of the roof. I think the "infrequent and temporary" are good additions to the requirements for using the method.

DOSH Response: Thank you. Under the construction standard, would have some 4, 6, and 10 foot requirements. Fixed industry, general industry, still maintain some 4's, and potentially have an exception from fall protection, low pitched rooves, usually what comes to mind, that 15 feet from the roof's edge-for example, Everett Boeing building, you can't even see the other side of it. It makes sense in those cases.

Question: *Would roofing repairs of short duration still not count as construction?*

DOSH Response: Roofing repair would be considered construction. The standard, chapter 296-880 Unified Fall Protection, defines roofing work, same as chapter 296-155 WAC, Safety standard for construction work: "The hoisting, storage, application, and removal of roofing materials and equipment, including related insulation, sheet metal, and vapor barrier work, but not including the construction of the roof deck." We define what roofing work is, and, we (the standard) define what construction work is, it is a pretty all-inclusive definition. There are three parts to it: "All or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling of buildings and other structures and all operations in connection therewith....." Thus, roofing work would meet the definition of construction work. Therefore, the safety watch and potentially the exception would not apply. The exception and safety watch could be used for HVAC service, various things like that. From stakeholder meeting Monday, question asked, about inspecting a roof if it is leaking. The standard currently allows an exemption from fall protection when "inspecting, investigating or assessing" roof level conditions. That exemption is not changing. However, when you are no longer "inspecting, investigating or assessing," you have to move in other forms of fall protection. This could be a safety watch, or if more than 15 feet, if adopted, fall protections wouldn't be required if there is a work rule in place that prohibits going within 15 feet of the roof edge without using fall protection. Could be if determining if there is asbestos on the roof, or, a branch fell thru etc.

Following the Question and Answer session DOSH staff thanked the attendees for their participation today. We value the exchange of ideas/comments from stakeholders.

Meeting adjourned at 1:36 p.m.