Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–117–B]

Grain Handling Facilities

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; technical amendment.

SUMMARY: OSHA's standard for grain handling facilities applies to employees entering bins, silos, or tanks. At present, it does not apply to employees entering ''flat storage buildings or tanks'' unless entry is made from the top of the structure. It was entended to provide protection from the hazards faced by employees who walk on or underneath accumulations of grain within a grain storage facility. These hazards include engulfment and entrapment in the grain and grain handling equipment, which can result in asphyxiations crushing injuries, and amputations. OSHA intended the exception for flat storage buildings or tanks only to apply to entries that did not expose employees to these hazards; the point of entry into the storage area is not the critical factor in determining whether the entering employee is exposed to the hazards addressed in the standard. In this notice, OSHA is proposing to revise the exception for flat storage buildings or tanks and to add a new provision that applies to entry into flat storage facilities which do not have atmospheric hazards. The new provision would provide employees entering flat storage facilities with protection against entrapment, engulfment, and mechanical hazards, regardless of their point of entry. A definition for ''flat storage facility'' would be added to indicate more clearly the important elements which distinguish flat storage facilities from other grain storage structures.

In addition, for the same reasons, OSHA proposes to amend the provision which requires specific rescue equipment for entries from the tops of bins, silos or tanks. The proposal would clarify this requirement to include all entries from above the level of the grain, or wherever employees walk or stand on stored grain which poses an engulfment hazard.

DATES: Comments and requests for hearings must be postmarked no later than November 20, 1995.

ADDRESSES: Comments and requests for hearings must be submitted in quadruplicate to the OSHA Docket Office, Docket No. H–117–B, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. (Telephone: 202–219–7894) Comments of 10 pages or less may be faxed to the Docket Office, if followed by hard copy mailed within two days. The OSHA Docket Office fax number is (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, OSHA Office of Information and Consumer Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION: OSHA's standard for grain handling facilities, 29 CFR 1910.272, was published on December 31, 1987 (52 FR 49625), after a lengthy and extensive rulemaking effort. These standards were challenged in the Fifth Circuitry Court of Appeals, and were upheld in pertinent part by that court in *National Grain and Feed Association* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989).

Entries Into Flat Storage Facilities

Paragraph (g) of § 1910.272 covers employee entry into grain bins, silos or tanks. It provides protection against the wide range of hazards that employees may encounter during such entries. These hazards include engulfment by grain, entrapment in draw-offs and mechanical equipment used to move the grain, and asphyxiation from oxygen-deficient atmospheres, among others.

The requirements of paragraph (g) apply, in general, to all bin, silo and tank entries. However, an exception is provided in paragraph (g) for entries into so-called ''flat storage buildings or tanks where the diameter of such structures is greater than the height.'' Entries into these structures are currently covered by paragraph (g) only when such entries are made from the *top* of the structure. Entries from other parts of the structure are excepted from coverage under paragraph (g).

In the preamble to the final rule (at 52 FR 49604–49605), OSHA explained its intentions as to the scope of the exception for flat storage:

> Many bins connected with grain facilities, e.g., flat storage and large diameter steel or concrete bins with ground level entry, present no entry hazards * * * Bin[s], silo[s] and tanks should be more clearly defined so as to exclude flat storage buildings with no bottom draw-off. The dangers represented in this section do not exist in conventional flat storage buildings which usually have large doorways and are at ground level * * *
>
> OSHA agrees that those large diameter tanks and flat storage buildings which are not entered from the top do not pose the same hazards as taller, cylindrical structures where ingress and egress are difficult, and where the quality of the atmosphere within such structures may be uncertain.

The final rule assumed that hazards from entry into flat storage structures only arise when the entry is made from the top, because employees who enter in that manner would do so in order to stand or walk on the stored grain. The text of the standard did not directly address situations in which the very same hazards would be encountered during entries from lower levels.[1]

In the seven years since the grain handling standard was issued, OSHA has learned that many entries take place from such levels lower than the top of the structure, in facilities whose dimensions (i.e., diameter greater than height) could be misconstrued to bring them within the definition of ''flat storage structures or tanks.'' At present, if such entries are made at points below the top of a qualifying flat storage structure or tank, they would be excepted from paragraph (g)'s requirements. However, it is clear to OSHA (and should be clear to employers) that employees making these entries are exposed to the same hazards of entry as if they were entering from the top.

Data collected by OSHA since the effective date of the grain handling

[1] It should be noted that Appendix A to § 1910.272 discusses the hazards faced by an employee who stands or walks on stored grain, without regard to the method or point of entry into the grain storage area.

standard clearly indicate that engulfment and mechanical injuries and fatalities continue to occur in these types of entries. One tragic example occurred on October 22, 1993, when 19-year-old employee and two other workers were instructed to enter a corn storage structure in order to ''walk down'' the corn. The structure's diameter was greater than its height if measured to the eaves, although the diameter was less than the height if measured to the peak of the roof. The workers entered the facility not at the top of the structure, but through an opening several feet above the ground.

The three men walked down the corn for 30–45 minutes while an auger at the base of the structure was running. At that point, the 19-year-old employee sank into the corn up to his knees. The two other workers began trying to pull him out, but he kept sinking as the corn began to avalanche, covering him and pushing him in the direction of the auger. One co-worker left to shut off the auger while the other continued to try to pull him from the corn. Rescue efforts were unsuccessful, and he suffocated. No rescue equipment, observers, lock-out procedures, or other precautions had been taken to protect the workers during the entry.

The present structure of paragraph (g) would benefit from further clarification to assure that these and other employees have the protection that this standard was intended to provide during entry. Accordingly, OSHA has determined that there is a compelling need to amend the standard to be in accord with its original intent: to provide appropriate protection to all grain handling employees, including those who walk on or under stored grain in flat storage facilities.

When the grain handling standard was promulgated, OSHA intended that the exception to paragraph (g) be a narrow one, provided relief only for situations where the hazards of entry were not significant. Since that time, the Agency has learned that the exception has been misinterpreted in a manner broader than its original intent. There are two basic problems with the exception to paragraph (g): First, as noted above, entries into flat storage-type structures can be hazardous even if they are not executed from the top of the structure; and, second, the current regulatory text places the emphasis on type and dimensions of the storage facility rather than on the hazards posed to the employee making the entry. OSHA believes that it is necessary to clarify the original intent more explicitly by making three amendments to § 1910.272: first, by revising the exception to paragraph (g) for flat storage to emphasize the hazards being addressed by the standard; second, by providing appropriate coverage for entries into flat storage facilities, in a new paragraph (h); and third, by adding a definition of ''flat storage facility'' to clarify OSHA's intentions as to the types of facilities which are to be covered in most cases by paragraph (h) instead of paragraph (g). The new paragraph (h) would assure that the standard provides protection for employees who are exposed to the hazards of entry into flat storage, regardless of where they enter the facility. Unlike the coverage in paragraph (g), however, paragraph (h) would be directed at engulfment and equipment hazards exclusively, rather than the broader range of confined space hazards addressed by paragraph (g).[2]

Paragraph (h) would only apply to flat storage facilities where there are none of the atmospheric hazards that might otherwise be encountered in the confined spaces of a grain storage facility. Facilities which are truly ''flat storage'' are warehouse-type storage structures, having doorways at ground level through which motorized vehicles such as front-end loaders and trucks can drive to move grain in and out of the structure. Because of their basic configuration, openness, and access to the outside, these facilities would not generally be expected to have restricted ventilation, confinement, or toxic or flammable materials that might be expected to produce atmospheric hazards for employees entering the structure. For these facilities, the employer should have no difficulty establishing that atmospheric hazards are not present, and that engulfment, entrapment, and mechanical equipment are the only entry hazards that need to be addressed. Proposed paragraph (h) is designed to handle these circumstances. By contrast, the proposed revision to the paragraph (g) exception makes clear that if atmospheric hazards *are* present, it is paragraph (g), and not paragraph (h), that applies to entries into the grain storage structure, regardless of the type of structure being entered.

The grain standard's present coverage of engulfment hazards is not sufficiently protective. Whereas entries (other than from the top) into flat storage structures are exempted from the confined spaces provisions of the standard, the standard does not provide alternative coverage for those entries. For example, an employee may enter a flat storage structure from a side or bottom entrance. If that employee walks on the grain, nothing in the current standard protects the employee from the hazards associated with that activity. If mechanical equipment, such as an auger, is used to draw off grain from the bottom, the employee is exposed to that equipment; if the surface of the grain were to collapse under the employee, the employee could be engulfed and asphyxiated; and if there were bridged grain above the employee, it could collapse upon the employee and cause asphyxiation. It is clear that the standard needs to be amended to provide protection from these hazards.

Accordingly, OSHA is proposing to revise the exception currently in paragraph (g), and to add a new paragraph (h) which addresses the requirements to be followed for all entries into flat storage structures where the employee may be exposed only to engulfment or mechanical equipment hazards.

In the amended standard, paragraph (g) would be revised to cover all grain storage structures; the current exception to paragraph (a) would be revised to except those flat storage facilities which only have engulfment, entrapment or mechanical hazards. As noted above, entries into these types of flat storage facilities would be covered by paragraph (h) instead. This change will assure that between paragraphs (g) and (h), all entrants who are exposed to engulfment, entrapment, or mechanical hazards will be protected, regardless of the type or structure of the facility being entered, and regardless of the point of entry.

A new definition of ''flat storage facility'' would be added to paragraph (c) of the standard, in order to indicate more clearly what types of grain storage structures would qualify for coverage by paragraph (h). In brief, a ''flat storage facility'' is, for all intents and purposes, a grain ''warehouse.'' The structure has doorways at ground level, through which motorized grain handling vehicles can be driven. Operators of these vehicles drive through the doorways to move grain into and out of the facility. A structure meeting the

[2] At present, entries from the top of flat storage facilities are covered by paragraph (g). Paragraph (g) addresses a wide range of hazards which are unique to confined spaces, including not only engulfment and equipment hazards, but also such hazards as toxic, flammable and explosive atmospheres. By contrast, wide-open, warehouse-type flat storage operations, which do not have restricted access and egress, would not normally be expected to generate or expose employees to the panoply of potential hazards that entries into silos and other confined spaces do. Thus, it is not necessary to apply all of the requirements of paragraph (g) to flat storage entries if atmospheric hazards are not present; instead, only the provisions which address engulfment and equipment hazards need to be added. New paragraph (h) would provide this coverage for all such flat storage entries, regardless of the point of entry. The proposed amendment and definition would bring the regulatory text into line with the OSHA's original intent in providing the current exception to paragraph (g).

definition of flat storage facility, qualifies for coverage under paragraph (h) if the only entry hazards are engulfment, entrapment, or mechanical; if there are atmospheric hazards present, the limited provisions of paragraph (h) will not be sufficient to provide entering employees with protection, and paragraph (g) applies.

The purpose of these revisions is to provide protection against engulfment by any employee who enters a grain storage facility and walks or stands on stored grain, regardless of the type of structure being entered. The revised standard would also prohibit the employer from exposing an employee to bridging conditions, whether or not the employee is walking or standing on the stored grain. In addition, the standard would require that the employer disconnect, lock and tag out, block off, or use another equally effective method to prevent operation of all equipment which presents a danger to employees, such as an auger or other mechanical equipment used to draw off grain. Similar requirements currently apply to entries into bins, silos or tanks under paragraph (g), and they would be extended to all grain storage entries under amended paragraph (g) and new paragraph (h).

Paragraph (g)(1)(ii) is the corresponding requirement to proposed paragraph (h)(2), relating to the deactivation of equipment. In conjunction with the requirement in proposed paragraph (h)(2), OSHA is also proposing to revise the text of paragraph (g)(1)(ii) to specify the need for deenergization, which is a necessary step in the procedures used to prevent the equipment from operating. This revision would provide additional consistency and clarify to the two provisions.

Most flat storage facilities are entered by walking in through a door at ground level, and grain is loaded and unloaded by conveyors, trucks and other vehicles, and other equipment. Entry into flat storage may present engulfment and mechanical hazards; however, the entrant would not normally be exposed to the unique hazards presented by entry into confined spaces. Therefore, where such hazards do not exist, the detailed permit and control requirements in paragraph (g) are not necessary or appropriate for flat storage entries. Entrants into flat storage facilities need to be protected from engulfment and equipment hazards, and the revised standard would provide the necessary protection.

Paragraph (h) would contain three requirements for flat storage: first, an employee walking or standing on grain would need to be equipped with a body harness and lifeline which will prevent the employee from sinking more than waist-deep into the grain. This provision would apply to any entry, from any point of entry, in which the employee walks on the grain. Second, any equipment which could endanger an entrant must be deenergized and prevented from operating during and for the duration of the entry. This provision would usually be directed at equipment located within the storage area; however, it would also address the engulfment hazard faced by an employee who is in the storage area when grain is being loaded into the area. The standard would not allow the equipment to expose the employee to this hazard. Third, no employee is to be exposed to a bridging condition or other buildup of grain which could fall on and engulf the employee.

As noted above, the revised language would not provide a blanket exception for entries into a grain handling structure based solely on its dimensions or points of entry. Where employees in any type of grain storage structure walk or stand on or under accumulations of grain or grain products which could engulf them, asphyxiate them, or entrap them in draw-off or mechanical equipment, the standard's protective requirements would apply.

In developing the final rule in 1987, OSHA determined that employees who enter grain storage bins, tanks, and other structures and who walk or stand on or under the stored grain are exposed to significant risks from a wide range of hazards. These hazards, particularly those of engulfment, asphyxiation, and entrapment, are not dependent on how or where the employee enters the structure. Rather, they relate directly to the employee's placement on top of and in the stored grain, regardless of how the employee reached that position. The significant risk being addressed by this proposed technical amendment (i.e., involving employees who enter flat storage structures from areas other than the top of the structure) is the residual risk that OSHA previously believed was adequately addressed in the final rule. Indeed, as noted earlier, as long as the employee's entry places that employee on top of or in the stored grain, the exact point of entry into the grain storage structure has no bearing on the hazards addressed by this part of the standard.

Rescue Equipment for Entries Into Grain Storage Facilities

Paragraph (g)(2) of § 1910.272 currently requires that specific types of rescue equipment be provided whenever entry is made from the ''top'' of a bin, silo, or other grain storage structure. As noted earlier, the hazards of entry onto the grain do not relate to the specific point of entry into the storage area; rather, they arise any time the entrant must walk on the grain, regardless of whether the entry was from the top, or from the side, or at or above the level of the grain. Accordingly, it is appropriate to amend paragraph (g)(2) to cover all such entries. OSHA notes that there is currently a provision in paragraph (g)(4) which requires that rescue equipment be provided for entries other than from the top; however, this requirement is less specific than paragraph (g)(2). For example, paragraph (g)(4) requires selection of rescue equipment to suit the particular situation. Clearly, when applied to entries from above or at grain level but not from the top, paragraph (g)(4) would usually require the use of the same types of rescue equipment as are mandated for top entries by paragraph (g)(2). However, the performance language of paragraph (g)(4) may have left the issue open to question in some situations, and OSHA wishes to eliminate any doubts about what rescue equipment is necessary for all entries from levels at or above the level of the grain. For reasons discussed above, OSHA believes that the protections of the standard should be the same for all entries at or above the level of the grain, and should not depend on whether the entry is from the top of the structure. In addition, these protections need to be provided whenever employees walk on or in stored grain of a depth which could cause engulfment, regardless of where the employee entered the storage structure. The hazards of walking the grain relate to the practice itself and not to the point or method of entry. Therefore, OSHA is proposing to amend paragraph (g)(2) to extend the specific requirements on rescue equipment to all entries at or above the level of the grain, and to all entries where employees walk on or in grain that is deep enough to cause an engulfment hazard. Paragraph (g)(4) would continue to apply to other types of entries under paragraph (g). In addition, in accordance with the scope of proposed paragraphs (g) and (h), the term ''grain storage structure'' is used in place of ''bins, silos and tanks.''

The Agency solicits public comment on the proposed changes to paragraph (g) and the proposed addition of a new paragraph (h) to § 1910.272. In particular, OSHA welcomes suggested alternative clarifying language for the exception which would better implement the Agency's original intent.

This rulemaking is limited to the regulatory text discussed in this notice. The rest of $1910.272 is not affected by this notice or this rulemaking action. The proposed change would also apply to employment in marine terminals (see 29 CFR 1917.1(a)(2)(ix), which incorporates § 1910.272 in its entirety.)

Summary of Preliminary Economic Analysis and Regulatory Flexibility Analysis

The regulatory action being undertaken in this notice is not a ''significant regulatory action'' for the purposes of Executive Order 12866. The proposed changes to paragraph (g) of § 1910.272 are designed to bring that paragraph into line with the Agency's original intentions in issuing the final rule in 1987. The Regulatory Impact Analysis performed for § 1910.272 at that time was based primarily on an assumption that the flat storage exception as drafted was as narrow as the Agency intended it to be. For that reason, any impacts associated with the proposed amendment to § 1910.272 were evaluated as part of the original final rule. OSHA has reviewed the earlier economic analysis and has determined that it accounts for any costs and impacts associated with the proposed change in the rule, and that no additional economic data or analyses are needed.

The Agency's intention in the final rule, in specifying particular types of rescue equipment for entries from the top of the structure, was that such equipment also be required for other entries which presented the same hazards, without regard to whether the employee entered from the side or other point of access at or above the level of the grain. However, as tragic experience has shown, the use of the term ''from the top'' has not always been interpreted in practice to mean the entire class of entries which OSHA intended these provisions to cover. Nevertheless, the regulatory impact analysis developed by OSHA in 1987 evaluated costs and benefits according to the Agency's regulatory intent, i.e., the analysis assumed that all entries would be covered, and that rescue equipment would be provided in all cases. OSHA has also reviewed the Regulatory Flexibility Analysis prepared in 1987 and reaffirms its determination that this rule will not have a significant impact on a substantial number of small entities.

The costs of the proposed technical amendment have already been accounted for in the Regulatory Impact Analysis (RIA) for the 1987 final rule. The data on entries developed for the RIA included all entries, regardless of point of entry or type of structure. These data had been collected in response to the original proposed rule, which did not contain an exception for flat storage.

The data available to OSHA indicate that several fatalities per year could be prevented by the proposed technical amendment. As discussed below, fatalities and injuries have continued to occur as a result of entries made from points other than the top of grain storage structures. The prevention of these fatalities and injuries would not involve compliance costs beyond those already calculated at the time of the final rule; hence, while the benefit of this proposal would be significant, the compliance burden would be minimal.

In the Final RIA, the Agency estimated that there were 14,000 grain elevators with 118,011 full-time and seasonal employees, and 9,922 grain mills with 129,068 full-time and part-time employees [Tables II–3, III–3, RIA (Exhibit 223)]. As noted at the time of the final rule, although all grain facilities have upright structures, only a portion only have flat storage structures [ADL (Exhibit 10); Stivers (Exhibit 193)]. Flat storage structures are typically add-ons, constructed quickly to handle excess grain. Although entries into such structures are common, the Agency believes that most such entries do not involve the hazards of walking on grain [ADL; Stivers]. An industry cost analysis relied upon in the RIA indicated that ''side entries'' add no additional costs [Stivers, pp. 3–15 through 3–17]. OSHA's analysis agrees with the industry on this point, i.e., the RIA's cost estimates for entries include costs for both top and side entries [RIA, pp. VI–12 to VI–17, and VI–63 to VI–68].

The Agency estimated in the final RIA that the final standard would prevent 80% of all grain handling engulfments. Based on more recent Agency data from its IMIS database, as many as 2 to 4 engulfment fatalities annually could be prevented by this technical amendment. Based on the same data, the Agency believes that a similar number of equipment-related accidents could also be prevented.

The original costs provided in the RIA for compliance with paragraph (g) of the standard, which addressed all kinds of entries for all types of grain storage structures, were estimated to be $12.7 million, as compared to the total cost estimates for § 1910.272 of between $41.4 and $68.8 million. Based on these figures, the Agency determined that the standard was economically feasible for the grain handling industry. The impacts of the amendment to paragraph (g) and the new paragraph (h) in this notice are incorporated into that analysis.

This proposed rule imposes no recordkeeping or reporting requirements under the Paperwork Reduction Act of 1995. It has no impacts on Federalism beyond those evaluated at the time of the final rule in 1987.

Public Participation

Interested persons are invited to submit written data, views and arguments on all issues with respect to this proposed standard. These comments must be postmarked on or before November 20, 1995. Comments are to be submitted in quadruplicate, or in 1 original (hard copy) and 1 disk (3½″or 5¼″) in WordPerfect 5.0, 5.1, or 6.0, or ASCII, to the Docket Office, Docket No. H–117–B, Room N2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. All written comments, data, views, and arguments that are received within the specified comment period will be made a part of the record and will be available for public inspection and copying at the above Docket Office address.

Requests for an informal public hearing on objections to the proposed rule, pursuant to § 6(b)(3) of the Occupational Safety and Health Act (29 U.S.C. 655(b)(3)), must be submitted to the Docket Office at the above address, and postmarked no later than November 20, 1995. Hearing requests must comply with the following requirements: they must include the name and address of the objector; they must specify with particularity the provision of the proposed rule to which the objection is taken, and must state the grounds therefore; and they must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

State Plan States

The 25 States and Territories with their own OSHA-approved occupational safety and health plans must revise their existing standard within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g. because an existing State standard covering this area is already ''at least as effective'' as the revised Federal standard. These States are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia,

Virgin Islands, Washington, and Wyoming.

List of Subjects in 29 CFR Part 1910

Grain handling, Grain elevators, Occupational safety and health, Protective equipment.

Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR Part 1911, it is hereby proposed to amend 29 CFR part 1910 as set forth below.

Signed at Washington, D.C., this 16th day of October, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

29 CFR part 1910 would be amended as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The Authority citation for subpart R of 29 CFR part 1910 would continue to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicble.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.269, 1910.272, 1910.274, and 1910.275 also issued under 29 CFR part 1911.

§ 1910.272 [Amended]

2. The paragraph designations of the *Definitions* in paragraph (c) of § 1910.272 would be removed.

3. A new definition of ''Flat storage facility'' would be added in alphabetical order in paragraph (c) of § 1910.272, to read as follows:

§ 1910.272 Grain handling facilities.

* * * * *

(c) *Definitions.*

* * * * *

Flat storage facility means a building or structure that is used to store grain, and that has large doorways at ground level through which motorized vehicles are driven in order to move grain.

* * * * *

4. Paragraphs (h) through (p) of § 1910.272 would be redesignated as new paragraphs (i) through (g), respectively.

5. The heading and introductory text of paragraph (g), and paragraphs (g)(1)(ii) and (g)(2) of § 1910.272, would be revised, and a new paragraph (h) would be added, to read as follows:

§ 1910.272 Grain handling facilities.

* * * * *

(g) *Entry into grain storage structures.* This paragraph applies to employee entry into bins, silos, tanks, and other grain storage structures. *Exception:* Entry into flat storage facilities in which there are no toxicity, flammability, oxygen-deficiency, or other atmospheric hazards is covered by paragraph (h) of this section.

(1) * * *

(ii) All mechanical, electrical, hydraulic, and pneumatic equipment which could present a danger to employees inside grain storage structures shall be deenergized and shall be disconnected, locked-out and tagged, blocked-off, or otherwise prevented from operating by other equally effective means or methods.

* * * * *

(2) When an employee enters a grain storage structure from a level at or above the level of the stored grain, or whenever an employee walks or stands on or in stored grain of a depth which poses an engulfment hazard, the employer shall equip the employee with a body harness with lifeline, or a boatswaian's chair that meets the requirements of subpart D of this part. The lifeline shall be so positioned, and of sufficient length, to prevent the employee from sinking further than waist-deep in the grain.

* * * * *

(h) *Entry into flat storage facilities.* (1) The employee shall be equipped with a body harness with lifeline when walking or standing on or in stored grain, where the depth of the grain poses an engulfment hazard. The lifeline shall be so positioned, and of sufficient length, to prevent the employee from sinking further than waist-deep in the grain.

(2) All mechanical, electrical, hydraulic, and pneumatic equipment which could present a danger to an employee inside a flat storage facility (such as an auger or other grain transport equipment when an employee is standing on stored grain) shall be deenergized, and shall be disconnected, locked-out and tagged, blocked-off, or otherwise prevented from operating by other equally effective means or methods.

(3) No employee shall be permitted to be either underneath a bridging condition, or in any other location where an accumulation of grain on the sides or elsewhere could fall and engulf that employee.

* * * * *

[FR Doc. 95–25954 Filed 10–18–95; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7155]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any