

Joint Statement on the USDA Federal Grain Inspection Service's (FGIS) Fall-Protection Directive

Issued by

**National Grain and Feed Association (NGFA)
and
American Association of Grain Inspection and Weighing Agencies
(AAGIWA)**

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On August 4, 2014, the U.S. Department of Agriculture's Federal Grain Inspection Service (FGIS) published Directive 9170.14, which provides procedures for identifying rolling stock fall hazards and for conducting a fall-protection feasibility assessment.

Importantly, the FGIS directive applies **only** to FGIS employees. In that regard, the directive states specifically that officially designated agencies authorized to perform official inspection services, under the U.S. Grain Standards Act, **may** adopt the policy or use it as a **guideline** to establish their own policy to comply with federal and state safety and health requirements. Officially designated agencies are **not required** to adopt the policy.

The directive was developed by FGIS in response to citations, issued by the Occupational Safety and Health Administration (OSHA) in 2011, for failing to conduct fall protection assessments, train employees on fall hazards, and train supervisors to identify potential hazards. Fall protection long has been one of OSHA's emphasis areas. Yet, the existing regulations under OSHA's walking-working surfaces and personal-protective equipment (fall-protection systems) standard – also known as Subpart D – do **not** specifically include rolling stock (such as rail cars) and motor vehicles. OSHA defines "rolling stock" as any locomotive, railcar or vehicle operated exclusively on a rail or rails, or a trolley bus operated by electric power supplied from an overhead wire.

Also relevant to this matter, OSHA in 1996 attempted to provide guidance to the grain handling industry on this uncertainty by issuing an internal memorandum – commonly known as the "[Miles Memo](#)" – that directed OSHA inspectors **not** to issue citations for rolling stock under Subpart D. The memo was OSHA's response to the NGFA's request for clarification of the agency's rolling stock enforcement policy. Specifically, the OSHA Miles Memo document states, "...falls from rolling stock would not be cited under the fall-protection standard because it was not appropriate to cite exposure to fall hazards from tops of rolling stock unless the stock was inside of or contiguous to a structure where fall protection is feasible."

As a result, the 1996 memorandum allows employers to rely on administrative controls, which include: 1) training; 2) physical evaluation of an employee's ability to work safely atop rail rolling stock; and 3) company procedures to ensure employee safety when working in staging yards and other areas away from the facility's railcar loading point.

Work environments and circumstances vary greatly at grain handling facilities, including in loading areas. Therefore, NGFA and AAGIWA encourage their respective members to work together to establish safety policies and procedures tailored to each individual location to comply with all federal and state safety and health requirements, including those pertaining to rolling stock fall protection. Those policies and procedures may differ from those found in the FGIS directive.

NGFA and AAGIWA remain committed to providing a safe work environment to their employees and contractors, and will continue to work together to achieve this objective.