State of California
Department of Industrial Relations
Occupational Safety and Health Standards Board

Petition File No. 607

Board Staff Evaluation
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State of California

Gavin Newsom, Governor

INTRODUCTION

Petition 607 (Petition) was submitted to the Standards Board (Board) by Kevin Bland on March 18, 2025, on behalf of the Housing Contractors of California, California Framing Association, and the Residential Contractors Association (petitioners). On April 14, 2025, the Board received an almost identical request from Kevin Bland on behalf of the Western States Regional Council of Carpenters (petitioner), which included proposed draft language related to fall protection plans for residential framing construction. The petition requests that the Board extend the effective date of the Residential Fall Protection regulations from July 1, 2025, to July 1, 2026, through an emergency rulemaking to address fall protection concerns with interior work in residential framing.

REQUESTED ACTION

The petitioners proposed two options to address their concerns. The first option proposed by the petitioners is for the Board to delay the July 1, 2025, effective date to allow sufficient time for the petitioners to meet with the “new” Federal Occupational Safety and Health Administration (Fed-OSHA) representatives to discuss the proposed changes. The petitioners believe that it will result in Fed-OSHA removing their requirements.

The second option proposed by the petitioners requires Board staff to add a new section (1671.3) for clarity and efficacy when using a fall protection plan during framing activities.

BACKGROUND/HISTORY

Fed OSHA fall protection requirements for the construction industry are set forth in subpart M of title 29, Code of Federal Regulations (29 CFR) part 1926, published on August 9, 1994. Fed-OSHA residential fall protection standards are contained in subpart M at 29 CFR section 1926.501(b)(13) and require fall protection (usually conventional fall protection, i.e. guardrail systems, safety net systems or personal fall arrest systems, fall restraint and fall positioning systems) for work six feet or more above lower levels, except where employers can demonstrate that such fall protection systems are infeasible or would create a greater hazard.

On December 8, 1995, Fed-OSHA issued Standard Instruction 3.1[1], which established an interim compliance policy that permitted employers engaged in certain residential construction activities to use specified alternative procedures instead of conventional fall protection. These alternative procedures could be used without a prior showing of infeasibility or greater hazard and without a written, site-specific fall protection plan. On June 18, 1999, Fed-OSHA issued Standards Directive (STD) 3-0.1A[2], re-designated as STD 03-00-001, a plain language replacement for Standard Instruction 3.1. California did not adopt either of the Fed-OSHA directives and continued to enforce its established residential framing and roofing industry fall protection standards, that emphasized the use of positive fall protection means, albeit at higher trigger heights than Fed-OSHA, together with employee training. On December 16, 2010, Fed-OSHA published another instruction designated STD 03-11-002[3] that rescinded STD 03-00-001.

According to STD-03-11-002, employers engaged in residential construction must comply with 29 CFR section 1926.501(b)(13), requiring workers engaged in residential construction six feet or more above lower levels to be protected from falls by conventional fall protection. The new guidance also stipulates that if employers can demonstrate that the use of such measures is infeasible or presents a greater hazard, they may implement a written, site-specific fall protection plan. As a result of the December 16, 2010, compliance guidance, Fed-OSHA began the process of reviewing all corresponding state plan standards, policies, and procedures covering fall protection in residential construction.

The comparable California standard contained in Construction Safety Orders (CSO) section 1716.2 establishes a fall protection trigger height of 15 feet for residential and light commercial framing.

To ensure state plans adhere to the requirements of the OSH Act of 1970, Federal Manual Annual Monitoring and Evaluation (FAME) audits are conducted annually to assess the performance of state plans. These reports help ensure that state plans are effectively implemented and enforced, and that standards are at least as effective as Federal OSHA standards. In the 2015 FAME report, Fed-OSHA listed Fall Protection as a major new issue and elevated it to a “finding”. Fall protection has been identified as a deficiency for the last 9 years.[4]

[1] Federal Occupational Safety and Health Administration (Fed-OSHA). Interim Fall Protection Compliance Guidelines for Residential Construction. https://www.osha.gov/enforcement/directives/std-31
[2] Fed-OSHA. Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction. https://www.osha.gov/enforcement/directives/std-03-00-001
[3] Fed-OSHA. Compliance Guidance for Residential Construction. https://www.osha.gov/enforcement/directives/std-03-11-002
[4] Federal OSHA State Plans FAME Reports – California https://www.osha.gov/stateplans/famereport/CA

In a letter to the Division of Occupational Safety and Health (Cal/OSHA), dated May 28, 2013, Fed-OSHA expressed concern over the non-conformity of California's residential fall protection standards with those of Fed-OSHA. Cal/OSHA asserted that California's 15 foot trigger heights for residential construction and varying trigger heights for residential roofing operations did not provide California workers with protection from falls equal to that provided by Fed-OSHA standards which specify a six foot trigger height. Hence, the necessity for California to lower the state's residential construction fall protection trigger height from the present trigger heights to six feet.

In response to Fed-OSHA concerns, the Board staff convened an advisory committee meeting on November 3 and 4, 2015. The advisory committee discussed California's residential fall protection standards in comparison to Fed-OSHA standards in terms of their effectiveness and the necessity to address any issues that may merit amendments to Title 8 residential fall protection standards. Findings from this meeting were presented to the Board during the January 21, 2016, business meeting in Costa Mesa, California. The Board concluded that action to address the trigger height issue in residential construction was needed and directed staff to "...treat as high priority and work expeditiously with stakeholder involvement, to assure California's regulatory compliance with Federal construction industry fall protection standards."

Board staff convened an advisory committee on April 11, 2016. The meeting was intended to provide stakeholders with an opportunity to express their support, concerns, objections, and recommendations regarding whether Title 8 construction standards for residential framing require amendment to render California commensurate with Federal OSHA, particularly with respect to fall protection trigger heights. Minutes from the April 11, 2016, meeting confirm the committee's focus on fall protection in residential construction and the goal of ensuring California's standards are consistent with Federal OSHA regulations. The July 1, 2025, approved regulations concerning CSO sections 1671.1, 1716.2, 1730, and 1731 reflect the committee's consensus and address the central issue of reducing the fall protection trigger heights for residential construction and residential roofing from their present trigger heights to six feet, consistent with the Fed-OSHA standard. During the public hearing held on January 18, 2024, some stakeholders, including the petitioner(s), voiced concerns about the changes to framing construction.[5]

On July 12, 2024, the Board received a letter from Fed-OSHA with concerns over some of the updates to California's residential fall protection plan, namely that the proposed language allows employers options in lieu of the requirements to prove infeasibility. [6]

[5] https://www.dir.ca.gov/oshsb/documents/Fall-Protection-in-Residential-Construction-FSOR-Revised.pdf
[6] https://www.dir.ca.gov/oshsb/documents/Fall-Protection-In-Construction-Phase-2-AC-fed-letter.pdf

Fed-OSHA submitted a formal response to this petition [607] on April 14, 2025, stating that the revisions to Construction Safety Orders (CSO), Sections 1671.1, 1716.2, 1730 and 1731 have been determined to be at least as effective (ALAE) as the federal standard.

PETITIONER'S ASSERTIONS

- The petitioner states there are no safe and acceptable options available to framing contractors to properly protect their workers, more specifically, when performing interior work.
- Working from ladders, using fall arrest systems, and/or using a fall protection plan can lead to citations from Cal/OSHA.

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (Cal/OSHA) EVALUATION

The Cal/OSHA evaluation report dated July 23, 2025, states that Cal/OSHA opposes the petitioners request to extend the effective date of the updated fall protection regulations from July 1, 2025, to July 1, 2026, as well as the petitioner's proposal for a new section, 1671.3.

Cal/OSHA emphasized that the July 1, 2025, regulatory update is the result of concerns expressed by Fed-OSHA. Rulemaking for these regulatory amendments was initiated by Board staff in response to concerns from Fed-OSHA that California title 8 regulations were not at least as effective as title 29 Code of Federal Regulations (CFR), Part 1926 Safety and Health Regulations for Construction.

Cal/OSHA also stated that the proposal for the new section is less protective than the current title 8 regulations and is not commensurate with Federal OSHA regulations.

STAFF EVALUATION

Relevant Standards

Federal Standards

29 CFR Part 1926, Safety and Health Regulations in Construction

29 CFR Part 1926, Subpart M – Fall Protection

California Standards

This petition is in regard to title 8, section 1716.2, a standard which was recently updated and goes into effect July 1, 2025.

Consensus Standards

ANSI/ASSP Z359 Series (Fall Protection Code)

ANSI/ASSE A10.18-2007 (R2012)

ANSI/ASSE A10.11-2010

ANSI/ASSP A10.32-2012

Staff Analysis

Framers have one of the most dangerous but important jobs in construction. They must stand on high ladders, work on areas with limited support, and work around dangerous equipment and tools. In 2024, Scott Ketcham, Director of the Directorate of Enforcement Programs for Fed-OSHA, presented data on OSHA's Top 10 most frequently violated standards – Fall Protection - general requirements (1926.501) remains at the top of the list for the 14th year in a row[7] and ladders are number three.

The petitioners highlight some of the hazards associated with interior work and state that framing contractors have been trying to comply with the approved changes but have yet to identify safer methods. Petitioners note that there is a small percentage of framing contractors who can comply using mobile equipment, and list concerns with working off ladders, using personal fall arrest systems, and safety nets.

US ladder manufacturing companies are required to meet OSHA requirements, and their products often meet other industry consensus standards for ladder construction (e.g., ANSI ASC 14), but ladders pose a unique safety hazard because in many cases the misuse and/or mismeasurement of them is unintentional. Ladder-related injuries and fatalities (most commonly from falls) come at a high cost, both in terms of fines and penalties as well as human lives. Understanding ladder safety includes knowing how to select the proper ladder, inspect a ladder, ascend and descend a ladder, and maintain and store a ladder. These key elements are crucial in preventing ladder-related injuries and fatalities.

Personal fall protection systems must be installed following manufacturers' instructions. Often, the manufacturer requires a qualified or competent person to perform an assessment. The anchorage/structure to which the system is being attached must be capable of supporting 5,000 lbs. per user. Arrest systems are required to have adequate clearance below the work area, and the potential fall path should be clear, and free fall distance should be limited to 6 feet or less. Fall arrest equipment cannot be used at all elevations as the minimum clearance required for using fall arrest systems safely will vary depending on the length of the lanyard, type of lanyard (e.g., self-retracting lanyard), and the height of the anchorage point.

[7] https://www.nsc.org/newsroom/osha-reveals-top-10-safety-violations-at-nsc-safet?srsltid=AfmBOorsTOnjD4tXNehJB_N3wOLitpvMAmXvZv_TvCu_My22arlAm7OO

Safety nets (also known as scaffold netting or construction safety netting) are often positioned below high work areas, such as bridges and buildings under construction, to catch falling workers and debris. They are often provided as a secondary line of defense. Nets must provide enough clearance to prevent contact with surfaces below upon impact.

Fall protection plans are a set of policies and procedures designed to help identify and reduce fall hazards. Each work site and job task can be unique and contain a number of fall hazards that must be addressed prior to beginning work. Supervisors are responsible for assessing these hazards and taking necessary corrective actions to reduce falls. Federal OSHA created guidelines in 29 CFR Part 1926 Subpart M, Fall Protection, Appendix E as a resource. The guidelines do not address all work site scenarios and fall hazards and are designed to be site specific once a determination has been made that fall protection is not feasible. Additionally, Appendix E includes statements that are not consistent with existing title 8 requirements.
On December 16, 2010, Fed-OSHA replaced Directive STD 3-01A and published Compliance Directive STD 03-11-002 *Compliance Guideline for Residential Construction*[8]. This directive requires workers engaged in residential construction activities to be at least at six feet or above to enable protection from falls by a conventional fall protection system. However, the directive does not include the alternative procedures for residential construction activities, which were previously included in the prior versions.

The previous section 1716.2 language was developed to create safe methods for joisting, sheathing, and trussing, and was adopted in 2002. During the April 11, 2016 advisory committee meeting for residential fall protection, Larry McCune, a senior safety engineer for Cal/OSHA, stated that “rather than follow the federal system of having the employer provide just a fall protection plan and provide no fall protection, the work would be arranged in California to provide some physical form of fall protection” via the language similar to the alternative work procedures found in STD3-01A[9]. Larry McCune pointed out that section 1716.2 provided guidelines for the employer and Cal/OSHA specifically on what is expected in terms of the employer’s duty to provide fall protection. However, as previously noted, Fed-OSHA stated that this regulation was not as least as effective; therefore, amendments were proposed in 2024.

[8] https://www.osha.gov/enforcement/directives/std-03-11-002
[9] STD-3-01A, “Interim Fall Protection Compliance Guidelines for Residential Construction,” effective June 18, 1999

Although the standard already applies to the construction industry, the Board's recent adoption of changes to residential fall protection to be at least as effective as the Federal standard was a lengthy and highly contentious rulemaking process. Fed-OSHA's insistence that Cal/OSHA must be ALAE was brought up multiple times, and Board staff had several meetings with stakeholders on this point. Board staff does not oppose petitioners or any stakeholder meeting with Fed-OSHA to discuss the regulation and proposed modifications. However, Board staff does not agree with delaying the effective date of the regulation since initiating such a change would result in another lengthy rulemaking process further postponing the health and safety measures required by Fed-OSHA.

According to data from Fed-OSHA's Industry profile database, the majority of fall protection citations being issued to construction contractors are in the roofing and framing industry.[10] Board staff agree with Cal/OSHA that the petitioners' proposal for the new section is less protective than the current title 8 regulations and is not commensurate with Fed-OSHA regulations. However, the petitioners' concerns-- that there are limited options for fall protection for interior framing work-- are valid and merit further discussions. Board staff sees value in clarifying the site-specific fall protection plans for interior framing activities. Board staff also believes that training requirements for fall protection programs, specifically for employees using safety monitoring systems and fall protection plans, should be reviewed for inadequacies that may affect an employee's requisite understanding or skill.

For the reasons stated above, Board staff recommends that an advisory committee meeting be convened to consider the following:

1. The necessity to clarify regulatory language to address interior framing activities and site-specific fall protection plans used by framers, either through possible amendments of the existing section (1671.1) or adoption of new sections 1671.3 or 1716.3.
2. The necessity to clarify or seek additional training requirements to implement site-specific fall protection plans, safety monitors, and work with Cal/OSHA on creating additional training materials or other tools to implement compliant site-specific fall protection plans.

[10]Industry Profile for an OSHA Standards
https://www.osha.gov/ords/imis/industryprofile.stand?p_esize=&p_stand=1926.501&p_state=FEFederal&p_type=5

STAFF RECOMMENDATION

Board staff recommends Petition No. 607 be Granted to the limited extent that staff be directed to convene an advisory committee. The advisory committee would consider the need for possible clarifications to the existing site-specific fall protection plan to address the interior work framing activities and consider additional training requirements to implement compliant site-specific fall protection plans.

The petitioners will be extended an invitation to participate in the advisory committee deliberations.