



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Division of Occupational Safety and Health

August 6, 2014

Ken Atha, Acting Regional Administrator
U.S. Department of Labor, OSHA
300 Fifth Ave., Ste 1280
Seattle, WA 98104

RE: Washington FFY 2013 FAME and CAP

Dear Mr. Atha,

I am pleased to provide you with the corrective action plan (CAP) and comments for the FFY 2013 FAME report.

This report is a valuable tool for further ensuring the safety and health of Washington state workers. The time and effort placed into the monitoring and review by both Washington and OSHA staff are significant.

In the **Executive Summary** of the report and within the **Section II, Major New Issues**, OSHA states "*serious concerns were identified*" in relation to the Washington States Fall Protection Standard. We respectfully and strongly disagree with these statements. The Washington State Fall Protection Standard covers employers performing construction activities and their workers in the state; it does not differentiate by industry. More significantly, the Washington State Fall Protection Standard is more protective to workers than the OSHA Residential Construction Standard. The OSHA request to adopt a standard specific to residential construction would be redundant and unnecessarily confusing to employers and workers in Washington State. Later in the report, in **Section D. Finding and Recommendations and Appendix B – Observations Subject to Continued Monitoring**, the issue is identified and discussed as an observation. The report states: "*OSHA does not consider observations to directly impact the overall effectiveness of the State Plan, and are included for purposes of future State Plan monitoring.*" We are unclear how our fall protection standard which has been in place since 1991 can be considered a major new issue, or how serious concerns can exist if the issue, classified as an observation, does not directly impact our effectiveness.

Of significant note, the most current construction fatality rate (2012) for Washington is the second lowest in the nation at 5.4. Although no fatality is acceptable, Washington has consistently had a much lower rate than the national average, we believe this at least in part can be attributed to our strong enforcement program and the protection provided by our standards.



Identifying the Washington State Fall Protection Standard in the Executive Summary and Major New Issues as a serious concern is misleading.

The **OSHA recommendation (13-1)** to *“review and revise the DOSH Compliance Manual for clarity of the issue of worker classification and ensure all enforcement staff receive training on worker classification related to corporations, sole proprietorships, and partnerships,”* will be completely addressed by DOSH. We agree with the need for this clarity, understanding and training.

Page 23 and 24 of the FAME report discuss **DOSH Discrimination (Whistleblower)** as being authorized under RCW 49.17.160 of the WISH Act to ask for “other appropriate relief” or as noted similar to OSH Act Section 11(c)(2) “make whole” remedies. RCW 49.17.160 Discrimination Against Employee Filing Complaint, Instituting Proceedings, or Testifying Prohibited – Procedure – Remedy, in part states....”*the superior court shall have jurisdiction, for cause shown, to restrain violations of subsection (1) of this section and order all appropriate relief....”* The Superior Court of Washington is authorized to order “other appropriate relief,” not DOSH. OSHA’s policies are not the same in all cases as Washington’s policies.

I am confident with collaboration and continued collegial engagements between Washington DOSH and OSHA we will jointly resolve the outstanding recommendation and address any remaining issues to joint satisfaction.

Thank you again for your time and efforts during this monitoring cycle.

Respectfully,

Anne F. Soiza, Assistant Director
Division of Occupational Safety and Health
Department of Labor and Industries

cc: Galen Blanton, Deputy Regional Administrator, OSHA Region 10
Dave Baker, Area Director Bellevue, OSHA Region 10
Steve Gossman, ARA/FSO, OSHA Region 10
A.J. Reid, State Programs Manager, OSHA Region 10
Eric Lahaie, Director Office of State Programs, OSHA
DOSH Management Team
Kelly Hillman, Performance Systems Manager, DOSH

Enclosures: OSHA’s June 12, 2013 letter to Washington
Washington’s August 8, 2013 letter to OSHA
Washington’s response to FPC for STD-03-110-002
Washington DOSH fall protection comparison table



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Division of Occupational Safety and Health

August 8, 2013

David L. Mahlum
Acting Regional Administrator, OSHA
United States Department of Labor
300 Fifth Avenue, Suite 1280
Seattle, WA 98104-2397

RE: June 12, 2013 Federal OSHA Letter Regarding Washington's Fall Protection Requirements
Covering the Construction Industry

Dear Mr. Mahlum:

I am responding to your letter that posed questions regarding the effectiveness of the fall protection rule that applies to construction activities in Washington State. I appreciate the opportunity to address your concerns and provide additional information.

We believe the rule which regulates fall protection for all construction activities as promulgated and enforced by the Washington State Division of Occupational Safety and Health (WA-DOSH) is at least as effective as the comparable Federal OSHA CFR's and in many instances are more protective than Federal OSHA in the prevention of worker fatalities and injuries.

The first fall protection rule covering all Washington State construction activities was adopted in 1991 after then Director Joe Dear partnered with industry stakeholders after a rash of construction fall fatalities in 1989-1990. Our fall protection rule has had strong support from construction business and labor over the past 22 years and we continue to work closely with stakeholders from the construction industry on fall protection issues. The latest rule clarity revision project was adopted in 2013 and was created by an ad hoc committee of WA-DOSH, business and labor groups. As a result, the current fall protection rule has widespread support within the state from business and labor. These partner organizations have invested a significant amount of time and effort into creating and adopting what we consider to be some of the most protective and up-to-date worker safety requirements in the nation. Many of these updated requirements incorporate new technology, equipment and methods that did not exist even 5 years ago. We have also spent a considerable amount of time applying clear writing principles to our safety and health rules to make them easier to read and understand, without requiring additional interpretative documents. The requirement to provide fall protection at four feet and ten feet was not changed with the 2013 update. We merged all fall protection requirements – which had existed in two separate sections of the construction activities rule – into one section with the 2013 fall protection update.

I would like to address each of the three issues you raised in your letter.

1. **Washington has a four feet trigger height for fall protection in general, with a ten feet trigger height for roofing work on low pitched roofs; leading edge work; working on any surface that does not meet the definition of a walking/working surface not already covered in the fall protection requirements at four feet or more; and excavation and trenching work. OSHA understands these trigger heights apply to residential construction in Washington. OSHA has a general six feet trigger height for fall protection in construction, including in residential construction. See 29 CFR 1026.501(b).**

Washington Response: We believe there are many instances where the WA-DOSH fall protection rule provides more protection for workers than the comparable OSHA fall protection requirements, regardless of the fall height. A significant difference is that the WA-DOSH rule does not allow an employer to make a determination about the feasibility of providing fall protection to employees. Our experience is that fall protection is always feasible regardless of the work environment and this is supported through a 20 year history of this approach. We have provided an attachment that compares Federal OSHA's Residential and Commercial Construction rules with our Fall Protection rule with comparison commentary.

The different trigger heights in the current fall protection rule have not significantly changed since 1995. When WA-DOSH updated its fall protection rules in 1995, we sent the following response to OSHA in response to questions about whether or not the state's fall protection rules were as effective as OSHA:

"WISHA's fall protection standards are more effective than OSHA's because they cover more workers more of the time. Under Chapter 296-155 WAC, Part K, WISHA requires guardrails or equivalent fall protection for all workers at four feet on walking/working surfaces not actively under construction by the workers. Chapter 296-155 WAC, Part C-1 requires fall protection at ten feet for workers actively constructing the surface on which they are standing or it's associated vertical component. These regulations apply to all construction workers at all times. There are no exemptions, in law or policy, for roof stockers, bricklayers, steel erectors, residential workers or any other group. A small percentage of workers are required by OSHA, but not by WISHA, to be protected when actively constructing surfaces between six and ten feet. A much larger number are fully protected from four feet up on walking/working surfaces by WISHA and from ten feet up on surfaces under construction. It is WISHA's experience that serious injuries from falls are reasonably predictable above ten feet but less common from six to ten feet. By allowing leading edge work to ten feet without fall protection, WISHA has been able to avoid multiple exceptions to the full application of its fall protection rules. Furthermore, by including warning lines and safety monitors as non-exceptional fall protection on low-pitched surfaces, WISHA has been able to establish uniform requirements for all such applications. WISHA's uniform requirements have historically resulted in greater understanding of fall protection requirements by employers and employees."

We did not receive any written correspondence for additional information from Federal OSHA based on this 1995 response.

2. **Washington allows the use of a safety watch system as a sole source of fall protection for work other than roofing work on low pitched roofs. Federal OSHA does not allow the use of a safety monitor for such work unless the employer can demonstrate that providing a guardrail, safety net, fall arrest, positioning, or restraint system is infeasible or creates a greater hazard. The employer must also address the use of a safety monitor in its fall protection plan.**

Washington Response: While it is similar to a safety monitor system, Washington's safety watch system requirement is not a safety monitor system in that it cannot be used for roofing work, requires the work to be short duration repair or servicing work, only allows two workers on the roof at a time and, the safety watch worker can have no other duties than to watch for the task performing worker's safety.

Washington's safety watch system is defined as a "means a fall protection system as described in WAC 296-155-24615(6), in which a competent person monitors one worker who is engaged in repair work or servicing equipment on low pitch roofs only."

The requirements for a safety watch system are:

- (6) Safety watch system specifications.
- (a) When one employee is conducting any repair work or servicing equipment on a roof that has a pitch no greater than four in twelve, employers are allowed to use a safety watch system.
 - (b) Ensure the safety watch system meets the following requirements:
 - (i) There can only be two people on the roof while the safety watch system is being used: The one employee acting as the safety watch and the one employee engaged in the repair work or servicing equipment;
 - (ii) The employee performing the task must comply promptly with fall hazard warnings from the safety watch;
 - (iii) Mechanical equipment is not used; and
 - (iv) The safety watch system is not used when weather conditions create additional hazards.
 - (c) Ensure the employee acting as the safety watch meets all of the following:
 - (i) Is a competent person as defined in WAC 296-155-24603;
 - (ii) Has full control over the work as it relates to fall protection;
 - (iii) Has a clear, unobstructed view of the worker;
 - (iv) Is able to maintain normal voice communication; and
 - (v) Performs no other duties while acting as the safety watch.

Also, it is our understanding that current Federal OSHA policy allows employers in residential construction to evaluate a worksite and make a determination that providing fall protection is infeasible under these similar conditions. An employer can document on the fall protection work plan that fall protection is infeasible and use nothing. We believe our safety watch requirement provides more complete protection to employees for these reasons.

August 8, 2013
David L. Mahlum
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3. The Washington program also differs in several other ways that may create concerns. For example, the state program does not have a compliance directive or specific fall protection requirements pertaining to residential construction.

Washington Response: Our goal is to have our rules so clear that compliance directives to staff are not required. We are always striving for this lofty goal and we consider it a victory to update rules and eliminate staff policy directives.

An important tenet of our construction activities-related fall protection rule is we have uniform rules for all industries for the prevention of falls from elevation. We believe the consistency and strength of having uniform rules allows all employers and their employees to learn and know the single matrix of construction-related fall protection requirements. We have not adopted any Federal OSHA fall protection compliance directives since February 3, 2011 because we do not have separate rules for residential and commercial construction. I have attached our response to this letter. It is true that Washington's fall protection rule is very different than those of Federal OSHA and we assert are at least as effective as the OSHA rules.

I hope that you find this information helpful. The very important thing for us is that Washington business, labor and WA-DOSH have buy-in to our fall protection rules and our long experience with these rules show that they work in the prevention of worker fatalities and injuries. Please let us know of any further concerns you may have.

Sincerely,

Anne F. Soiza
Assistant Director
Division of Occupational Safety and Health

Enclosures:

- Federal OSHA/WA-DOSH Fall Protection Rule Comparison
- Washington State's Response To Federal Program Change Memo for Std-03-11-002, Compliance Guidance for Residential Construction, dated February 3, 2011(email)

cc: Dave Puente, Deputy Assistant Director, DOSH
Alan Lundeen, Senior Program Manager, Standards, Technical and Laboratory Services
Doug Kalinowski, Director, DCSP
Dale Cavanaugh, ARA/OTS
Dave Baker, AD, Bellevue
Steve Gossman, ARA/FSO

From: Spencer, Tracy L (LNI)
Sent: Thursday, February 03, 2011 2:38 PM
To: 'bryant.barbara@dol.gov'; Bob Sjoberg; 'Dale Cavanaugh'; 'Dave Mahlum'
Subject: Washington's Response to Federal Program Change Memo for STD-03-11-002

[Washington State's Response To Federal Program Change Memo for Std-03-11-002, Compliance Guidance for Residential Construction.](#)

Directive Subject:
Compliance Guidance for Residential Construction

Additional Comments:

Notice of Intent and Equivalency Required. This Instruction rescinds OSHA Instruction STD 03-00-001, interim enforcement policy on fall protection for certain residential construction activities, and replaces it with new compliance guidance. Some States did not adopt, or have since rescinded, the earlier directive. States must have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as Federal OSHA's program. State plans must adopt the interpretation of "residential construction" and the citation policy described in paragraphs IX and X of this Instruction or an at least as effective alternative interpretation and policy. Those States that adopted the policy in the December 8, 1995 STD 3.1 and/or the June 18, 1999 directive STD 03-00-001 (old directive number STD 3-0.1A), must similarly rescind those policies. States must notify OSHA whether they intend to adopt changes identical to those in this Instruction or adopt or maintain different but at least as effective inspection policies and procedures for fall protection in residential construction. If a State adopts or maintains guidance that differs from Federal OSHA's, the State must identify the differences and either post its different policies on its State Plan website and provide the link to OSHA or provide an electronic copy to OSHA with information on how the public may obtain a copy. If the State adopts identical policies and procedures, it must provide the date of adoption to OSHA. Regions are asked to enter this information in the comments section of the ATS FPC Log immediately upon receipt. OSHA will post summary information on its website. Please forward your response to this notice to your Regional Office and to bryant.barbara@dol.gov.

The directive is posted at

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=4755#VII

Federal Program Change
Directive Number: STD-03-11-002
Date of Directive: 12/16/2010
Response Due Date: 02/26/2011
Internet Link: www.osha.gov
Internet Link2:

State Intention IS Required.

Adoption is Required: NO

State Intent:

Plan to Adopt Change (Y/N): NO

Plan to Adopt Identical (Y/N): _____

Anticipated Adoption Date: ___/___/___

Plan to Adopt Alternative Approach (Y/N): _____

Anticipated Submission Date: ___/___/___

State Comments:

DOSH will not adopt OSHA's guidance on residential construction. DOSH will not adopt OSHA's Instruction STD 03-11-002 that rescinds STD 03-00-001. DOSH did not adopt STD 3.1 nor STD 03-00-001. DOSH maintains different but at least as effective inspection policies and procedures for fall protection in residential construction.

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>Zero Foot Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>Zero Foot Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24605 WAC 296-155-24607 <u>Zero Foot Trigger Height</u>	Comments
<p>Fall protection is required at zero feet 1926.501(a)(2) The employer shall determine if the walking/working surfaces on which its employees are to work have the strength and structural integrity to support employees safely. Employees shall be allowed to work on those surfaces only when the surfaces have the requisite strength and structural integrity.</p> <p>1926.501(b)(4)(ii) Each employee on a walking/working surface shall be protected from tripping in or stepping into or through holes (including skylights) by covers.</p> <p>1926.501(b)(8)(i) Each employee less than 6 feet (1.8 m) above dangerous equipment shall be protected from falling into or onto the dangerous equipment by guardrail systems or by equipment guards.</p> <p>1926.701(b) Reinforcing steel. All protruding reinforcing steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement.</p>	<p>Fall protection is required at zero feet 1926.501(a)(2) The employer shall determine if the walking/working surfaces on which its employees are to work have the strength and structural integrity to support employees safely. Employees shall be allowed to work on those surfaces only when the surfaces have the requisite strength and structural integrity.</p> <p>1926.501(b)(4)(ii) Each employee on a walking/working surface shall be protected from tripping in or stepping into or through holes (including skylights) by covers.</p> <p>1926.501(b)(8)(i) Each employee less than 6 feet (1.8 m) above dangerous equipment shall be protected from falling into or onto the dangerous equipment by guardrail systems or by equipment guards.</p> <p>1926.701(b) Reinforcing steel. All protruding reinforcing steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement.</p>	<p>WAC 296-155-24605 General requirements. (1) The employer shall ensure that all surfaces on which employees will be working or walking on are structurally sound and will support them safely prior to allowing employees to work or walk on them.</p> <p>WAC 296-155-24607 Fall protection required regardless of height (1) Regardless of height, open sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, such as dip tanks and material handling equipment, and similar hazards shall be guarded with a standard guardrail system. (2) Floor holes or floor openings, into which persons can accidentally walk, shall be guarded by either a standard railing with standard toe board on all exposed sides, or a cover of standard strength and construction that is secured against accidental displacement. While the cover is not in place, the floor hole opening shall be protected by a standard railing. (3) Regardless of height employees shall be protected from falling into or onto impalement hazards, such as: Reinforcing steel (rebar), or exposed steel or wood stakes used to set forms.</p>	<p>OSHA addresses 3 fall protection requirements of height. WA-DOSH requirements are as effective as the CFR 1926 in addressing the same requirements.</p> <p>WA-DOSH addresses providing protection from impalement hazards beyond reinforcing steel and is more effective than OSHA.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609 <u>4 Feet Trigger Height</u>	Comments
No OSHA Equivalent	No OSHA Equivalent	<p>WAC 296-155-24609 Fall protection required at four feet or more.</p> <p>(1) The employer shall ensure that the appropriate fall protection system is provided, installed, and implemented according to the requirements in this part when employees are exposed to fall hazards of four feet or more to the ground or lower level when on a walking/working surface.</p> <p>(2) Guarding of walking/working surfaces with unprotected sides and edges. Every open sided walking/working surface or platform four feet or more above adjacent floor or ground level shall be guarded by one of the following fall protection systems.</p> <p>(a) A standard guardrail system, or the equivalent, as specified in WAC 296-155-24615(2), on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, there is moving machinery, or there is equipment with which falling materials could create a hazard.</p> <p>(i) When employees are using stilts, the height of the top rail or equivalent member of the standard guardrail system must be increased (or additional railings may be added) an amount equal to the height of the stilts while maintaining the strength specifications of the guardrail</p>	<p>OSHA has no comparable rule that requires fall protection at four feet.</p> <p>WA-DOSH requires fall protection at four feet for all walking/working surfaces, skylights, working on the face of forms, ramps, step pitch roofs, concrete, wall openings, open sided surfaces, pits and manholes. Exemptions to these fall protection requirements are dependent on the activity employees are performing but fall protection would still be required at ten feet.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609 <u>4 Feet Trigger Height</u>	Comments
		<p>system.</p> <p>(ii) Where employees are working on platforms above the protection of the guardrail system, the employer must either increase the height of the guardrail system as specified in (a)(i) of this subsection, or select and implement another fall protection system as specified in (b), (c), (d), (e), or (f) of this subsection.</p> <p>(iii) When guardrails must be temporarily removed to perform a specific task, the area shall be constantly attended by a monitor until the guardrail is replaced. The only duty the monitor shall perform is to warn persons entering the area of the fall hazard.</p> <p>(b) A fall restraint system;</p> <p>(c) A personal fall arrest system;</p> <p>(d) A safety net system;</p> <p>(e) A catch platform; and</p> <p>(f) A warning line.</p> <p>(3) Guarding of ramps, runways, and inclined walkways.</p> <p>(a) Ramps, runways, and inclined walkways that are four feet or more above the ground or lower level shall be equipped with a standard guardrail system or the equivalent, as specified in WAC 296-155-24615(2), along each open side. Wherever tools, machine parts, or materials are likely to be used on the runway, a toe board shall also be installed on each open side to protect persons working or passing below.</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609	Comments
<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	
		<p>(b) Runways used exclusively for special purposes may have the railing on one side omitted where operating conditions necessitate such omission, provided the falling hazard is minimized by using a runway not less than eighteen inches wide.</p> <p>Note: See WAC 296-155-24619(1) for other specific criteria for ramps, runways, and inclined walkways.</p> <p>(4) Guarding of floor openings.</p> <p>(a) Floor openings shall be guarded by one of the following fall restraint systems.</p> <p>(i) A standard guardrail system, or the equivalent, as specified in WAC 296-155-24615(2), on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard.</p> <p>(ii) A cover, as specified in WAC 296-155-24615(3).</p> <p>(iii) A warning line system erected at least fifteen feet from all unprotected sides or edges of the floor opening and meets the requirements of WAC 296-155-24615(4).</p> <p>(iv) If it becomes necessary to remove the cover, the guardrail system, or the warning line system, then an employee</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609	Comments
<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	
		<p>shall remain at the opening until the cover, guardrail system, or warning line system is replaced. The only duty the employee shall perform is to prevent exposure to the fall hazard by warning persons entering the area of the fall hazard.</p> <p>(b) Ladderway floor openings or platforms shall be guarded by standard guardrail system with standard toe boards on all exposed sides, except at entrance to opening, with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.</p> <p>(c) Hatchways and chute floor openings shall be guarded by one of the following:</p> <p>(i) Hinged covers of standard strength and construction and a standard guardrail system with only one exposed side. When the opening is not in use, the cover shall be closed or the exposed side shall be guarded at both top and intermediate positions by removable standard guardrail systems.</p> <p>(ii) A removable standard guardrail system with toe board on not more than two sides of the opening and fixed standard guardrail system with toe boards on all other exposed sides. The removable railing shall be kept in place when the opening is not in use and shall be hinged or otherwise mounted so as to be conveniently replaceable.</p> <p>(d) Wherever there is a danger of falling</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609	Comments
<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	
		<p>through an unprotected skylight opening, or the skylight has been installed and is not capable of sustaining the weight of a two hundred pound person with a safety factor of four, standard guardrails shall be provided on all exposed sides in accordance with WAC 296-155-24615(2) or the skylight shall be covered in accordance with WAC 296-155-24615(3). Personal fall arrest equipment may be used as an equivalent means of fall protection when worn by all employees exposed to the fall hazard.</p> <p>(e) Pits and trap door floor openings shall be guarded by floor opening covers of standard strength and construction. While the cover is not in place, the pit or trap openings shall be protected on all exposed sides by removable standard guardrail system.</p> <p>(f) Manhole floor openings shall be guarded by standard covers which need not be hinged in place. While the cover is not in place, the manhole opening shall be protected by standard guardrail system.</p> <p>(5) Guarding of wall openings.</p> <p>(a) Wall openings, from which there is a fall hazard of four feet or more, and the bottom of the opening is less than thirty-nine inches above the working surface, shall be guarded as follows:</p> <p>(i) When the height and placement of the opening in relation to the working surface is such that either a standard rail or</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>4 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609 <u>4 Feet Trigger Height</u>	Comments
		<p>intermediate rail will effectively reduce the danger of falling, one or both shall be provided;</p> <p>(ii) The bottom of a wall opening, which is less than four inches above the working surface, regardless of width, shall be protected by a standard toe board or an enclosing screen either of solid construction or as specified in WAC 296-155-24615 (2)(c).</p> <p>(b) An extension platform, outside a wall opening, onto which materials can be hoisted for handling shall have standard guardrails on all exposed sides or equivalent. One side of an extension platform may have removable railings in order to facilitate handling materials.</p> <p>(c) When a chute is attached to an opening, the provisions of subsection (5)(c) of this section shall apply, except that a toe board is not required.</p> <p>(6) Fall protection during form and rebar work. When exposed to a fall height of four feet or more, employees placing or tying reinforcing steel on a vertical face are required to be protected by personal fall arrest systems, safety net systems, or positioning device systems.</p> <p>(7) Fall protection on steep pitched and low pitched roofs.</p> <p>(a) Steep pitched roofs. Regardless of the work activity, employers shall ensure that employees exposed to fall hazards of four feet or more while working on a roof with a pitch greater than four in</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24609	Comments
<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	<u>4 Feet Trigger Height</u>	
		<p>twelve use one of the following:</p> <ul style="list-style-type: none"> (i) Fall restraint system. Safety monitors and warning line systems are prohibited on steep pitched roofs; (ii) Fall arrest system; or (iii) Positioning device system. <p>(b) Low pitched roofs. Employers shall ensure that employees exposed to fall hazards of four feet or more while engaged in work, other than roofing work or leading edge work, on low pitched roofs use one of the following:</p> <ul style="list-style-type: none"> (i) Fall restraint system; (ii) Fall arrest system; (iii) Positioning device system; (iv) Safety monitor and warning line system; or (v) Safety watch system. <p>(8) Hazardous slopes. Employees exposed to falls of four feet or more while working on a hazardous slope shall use personal fall restraint systems or positioning device systems.</p>	

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611	Comments
<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	
<p>1926.501(b)(13) "Residential construction." Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure. Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502. Note: There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with 1926.502(k) for a particular workplace situation, in lieu of implementing any of those systems.</p>	<p>1926.501(b)(1) "Unprotected sides and edges." Each employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level shall be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems.</p> <p>1926.501(b)(2)(i) Each employee who is constructing a leading edge 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, or personal fall arrest systems. Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502. Note: There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to</p>	<p>No WA-DOSH Equivalent</p>	<p>During the most recent update to the WA-DOSH fall protection rules, the remaining six foot fall protection requirements were changed to four requirements.</p> <p>WA-DOSH does not allow the employer to make a feasibility determination on providing fall protection. WA-DOSH fall protection rules make it clear that fall protection is always feasible, and the employer is expected to provide fall protection when required by the rule.</p> <p>Where OSHA has six feet fall protection requirements, the WA-DOSH is more effective and requires fall protection at four feet in almost all cases.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611	Comments
<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	
	<p>implement a fall protection plan which complies with 1926.502(k) for a particular workplace situation, in lieu of implementing any of those systems.</p> <p>1926.501(b)(3) "Hoist areas." Each employee in a hoist area shall be protected from falling 6 feet (1.8 m) or more to lower levels by guardrail systems or personal fall arrest systems. If guardrail systems, [or chain, gate, or guardrail] or portions thereof, are removed to facilitate the hoisting operation (e.g., during landing of materials), and an employee must lean through the access opening or out over the edge of the access opening (to receive or guide equipment and materials, for example), that employee shall be protected from fall hazards by a personal fall arrest system.</p> <p>1926.501(b)(4)(i) Each employee on walking/working surfaces shall be protected from falling through holes (including skylights) more than 6 feet (1.8 m) above lower levels, by personal fall arrest systems, covers, or guardrail systems erected around such holes.</p>		<p>Specific exemptions are outlined in the rule and fall protection would be required at ten feet.</p> <p>During the rule making process, a roof was more clearly defined as a walking or working surface and fall protection would be required at 4 feet unless employees are performing a specific activity such as constructing the roof surface.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611	Comments
<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	
	<p>1926.501(b)(5) "Formwork and reinforcing steel." Each employee on the face of formwork or reinforcing steel shall be protected from falling 6 feet (1.8 m) or more to lower levels by personal fall arrest systems, safety net systems, or positioning device systems.</p> <p>1926.501(b)(6) "Ramps, runways, and other walkways." Each employee on ramps, runways, and other walkways shall be protected from falling 6 feet (1.8 m) or more to lower levels by guardrail systems.</p> <p>1926.501(b)(7)(i) Each employee at the edge of an excavation 6 feet (1.8 m) or more in depth shall be protected from falling by guardrail systems, fences, or barricades when the excavations are not readily seen because of plant growth or other visual barrier;</p> <p>1926.501(b)(7)(ii) Each employee at the edge of a well, pit, shaft, and similar excavation 6 feet (1.8 m) or more in depth shall be protected from falling by guardrail systems, fences, barricades, or covers.</p>		

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611	Comments
<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	
	<p>1926.501(b)(8)(i) Each employee less than 6 feet (1.8 m) above dangerous equipment shall be protected from falling into or onto the dangerous equipment by guardrail systems or by equipment guards.</p> <p>1926.501(b)(8)(ii) Each employee 6 feet (1.8 m) or more above dangerous equipment shall be protected from fall hazards by guardrail systems, personal fall arrest systems, or safety net systems.</p> <p>1926.501(b)(9)(i) Except as otherwise provided in paragraph (b) of this section, each employee performing overhand bricklaying and related work 6 feet (1.8 m) or more above lower levels, shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or shall work in a controlled access zone.</p> <p>1926.501(b)(10) "Roofing work on Low-slope roofs." Except as otherwise provided in paragraph (b) of this section, each employee engaged in roofing</p>		

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.501	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611	Comments
<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	<u>6 Feet Trigger Height</u>	
	<p>activities on low-slope roofs, with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50-feet (15.25 m) or less in width (see Appendix A to subpart M of this part), the use of a safety monitoring system alone [i.e. without the warning line system] is permitted.</p> <p>1926.501(b)(11) "Steep roofs." Each employee on a steep roof with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems with toeboards, safety net systems, or personal fall arrest systems.</p> <p>1926.501(b)(12) "Precast concrete erection." Each employee engaged in the erection of precast concrete members</p>		

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>6 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>6 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611 <u>6 Feet Trigger Height</u>	Comments
	<p>(including, but not limited to the erection of wall panels, columns, beams, and floor and roof "tees") and related operations such as grouting of precast concrete members, who is 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, or personal fall arrest systems, unless another provision in paragraph (b) of this section provides for an alternative fall protection measure.</p> <p>Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502.</p> <p>Note: There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with 1926.502(k) for a particular workplace situation, in lieu of implementing any of those systems.</p>		

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>6 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>6 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611 <u>6 Feet Trigger Height</u>	Comments
	<p>1926.501(b)(14) "Wall openings." Each employee working on, at, above, or near wall openings (including those with chutes attached) where the outside bottom edge of the wall opening is 6 feet (1.8 m) or more above lower levels and the inside bottom edge of the wall opening is less than 39 inches (1.0 m) above the walking/working surface, shall be protected from falling by the use of a guardrail system, a safety net system, or a personal fall arrest system.</p> <p>1926.501(b)(15) "Walking/working surfaces not otherwise addressed." Except as provided in 1926.500(a)(2) or in 1926.501 (b)(1) through (b)(14), each employee on a walking/working surface 6 feet (1.8 m) or more above lower levels shall be protected from falling by a guardrail system, safety net system, or personal fall arrest system.</p> <p>1926.451(e)(5)(i) Ramps and walkways 6 feet (1.8 m) or more above lower levels shall have guardrail systems which comply with subpart M of this part – Fall Protection;</p>		

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611 <u>10 Feet Trigger Height</u>	Comments
No OSHA Equivalent	No OSHA Equivalent	<p>WAC 296-155-24611 Fall protection required at ten feet or more.</p> <p>(1) The employer shall ensure that the appropriate fall protection system is provided, installed, and implemented according to the requirements in this part when employees are exposed to fall hazards of ten feet or more to the ground or lower level, while:</p> <p>(a) Engaged in roofing work on a low pitched roof;</p> <p>(b) Constructing a leading edge;</p> <p><i>Note: Employees not directly involved with constructing the leading edge, or are not performing roofing work must comply with WAC 296-155-24609, Fall protection required at four feet or more.</i></p> <p>(c) Working on any surface that does not meet the definition of a walking/working surface not already covered in WAC 296-155-24609;</p> <p>(d) Engaged in excavation and trenching operations.</p> <p>(i) Exceptions. Fall protection is not required at excavations when employees are:</p> <p>(A) Directly involved with the excavation process and on the ground at the top edge of the excavation; or</p> <p>(B) Working at an excavation site where appropriate sloping of side walls has been implemented as the excavation protective system,</p> <p>(ii) Fall protection is required for</p>	<p>This the original explanatory information sent to OSHA after WA-DOSH updated its fall protection in 1995. The rules and requirements referred to in this note did not change when the fall protection rule was updated in 2013:</p> <p>WISHA's fall protection standards are more effective than OSHA's because they cover more workers more of the time. Under Chapter 296-155 WAC, Park K, WISHA requires guardrails or equivalent fall protection for all workers at four feet on walking/working surfaces not actively under construction by the workers. Chapter 296-155 WAC, Part C-1 requires fall protection at ten feet for workers actively constructing the surface on which they</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-165-24611 <u>10 Feet Trigger Height</u>	Comments
		<p>employees standing in or working in the affected area of a trench or excavation exposed to a fall hazard of ten feet or more and:</p> <p>(A) The employees are not directly involved with the excavation process; or</p> <p>(B) The employees are on the protective system or any other structure in the excavation.</p> <p><i>Note: Persons considered directly involved in the excavation process include:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Foreman of the crew. <input type="checkbox"/> Signal person. <input type="checkbox"/> Employee hooking on pipe or other materials. <input type="checkbox"/> Grade person. <input type="checkbox"/> State, county, or city inspectors inspecting the excavation or trench. <input type="checkbox"/> An engineer or other professional conducting a quality-assurance inspection. <p>(2) Fall protection work plan. The employer shall develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of ten feet or more exist.</p> <p>(a) The fall protection work plan shall:</p> <ul style="list-style-type: none"> (i) Identify all fall hazards in the work area; (ii) Describe the method of fall arrest or fall restraint to be provided; 	<p>are standing or it's associated vertical component. These regulations apply to all construction workers at all times. There are no exemptions, in law or policy, for roof stockers, bricklayers, steel erectors, residential workers or any other group. A small percentage of workers are required by OSHA, but not by WISHA, to be protected when actively constructing surfaces between six and ten feet. A much larger number are fully protected from four feet up on walking/working surfaces by WISHA and from ten feet up on surfaces under construction. It is WISHA's experience that serious injuries from falls are reasonably predictable above ten feet but less common from six to ten feet. By allowing</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611 <u>10 Feet Trigger Height</u>	Comments
		<p>(iii) Describe the proper procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used;</p> <p>(iv) Describe the proper procedures for the handling, storage, and securing of tools and materials;</p> <p>(v) Describe the method of providing overhead protection for workers who may be in, or pass through the area below the worksite;</p> <p>(vi) Describe the method for prompt, safe removal of injured workers; and</p> <p>(vii) Be available on the job site for inspection by the department.</p> <p>(b) Prior to permitting employees into areas where fall hazards exist the employer shall ensure employees are trained and instructed in the items described in (a)(i) through (vii) of this subsection.</p>	<p>leading edge work to ten feet without fall protection, WISHA has been able to avoid multiple exceptions to the full application of its fall protection rules. Furthermore, by including warning lines and safety monitors as non-exceptional fall protection on low-pitched surfaces, WISHA has been able to establish uniform requirements for all such applications. WISHA's uniform requirements have historically resulted in greater understanding of fall protection requirements by employers and employees. (The division changed its name from WISHA to WA-DOSH in 2007)</p> <p>WA-DOSH's excavation policy directive for fall protection was incorporated into the</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.501 <u>10 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities WAC 296-155-24611 <u>10 Feet Trigger Height</u>	Comments
			<p>new fall protection rule.</p> <p>OSHA's letter of interpretation dated January 22, 1996 states that fall protection around excavations is only required when the excavation cannot be readily seen because of plant growth or other reasons. WA-DOSH requires fall protection at 10 feet around excavations with no exceptions on visibility.</p> <p>WA-DOSH does not allow the employer to make a feasibility determination and makes it clear that fall protection must be provided. Any exemptions in the rules still require some type of fall protection to be implemented by the employer.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501	OSHA Commercial Construction CFR 1926.760	WA-DOSH Fall Protection Rules for All Construction Activities	Comments
<u>Greater Than 10 Feet Trigger Height</u>	<u>Greater Than 10 Feet Trigger Height</u>	<u>Greater Than 10 Feet Trigger Height</u>	
<p>No OSHA Equivalent</p>	<p>1926.760(a)(1) Except as provided by paragraph (a)(3) of this section, each employee engaged in a steel erection activity who is on a walking/working surface with an unprotected side or edge more than 15 feet (4.6 m) above a lower level shall be protected from fall hazards by guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.</p> <p>1926.760(b)(1) Be protected in accordance with paragraph (a)(1) of this section from fall hazards of more than two stories or 30 feet (9.1 m) above a lower level, whichever is less;</p> <p>1926.760(b)(3) Be provided, at heights over 15 and up to 30 feet above a lower level, with a personal fall arrest system, positioning device system or fall restraint system and wear the equipment necessary to be able to be tied off; or be provided with other means of protection from fall hazards in accordance with paragraph (a)(1) of this section.</p>	<p>No WA-DOSH Equivalent</p>	<p>WA-DOSH fall protection rules do not allow unprotected employee exposure to falls in excess of 10 feet, except for an exemption for excavations.</p>

Requirements for Trigger Heights from OSHA and WA-DOSH Fall Protection Rules

OSHA Residential Construction CFR 1926.501 <u>Greater Than 10 Feet Trigger Height</u>	OSHA Commercial Construction CFR 1926.760 <u>Greater Than 10 Feet Trigger Height</u>	WA-DOSH Fall Protection Rules for All Construction Activities <u>Greater Than 10 Feet Trigger Height</u>	Comments
	<p>Controlled Decking Zone (CDZ). A controlled decking zone may be established in that area of the structure over 15 and up to 30 feet above a lower level where metal decking is initially being installed and forms the leading edge of a work area. In each CDZ, the following shall apply:</p> <p>1926.760(c)(1) Each employee working at the leading edge in a CDZ shall be protected from fall hazards of more than two stories or 30 feet (9.1 m), whichever is less.</p>		

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration
300 Fifth Avenue, Suite 1280
Seattle, Washington 98104-2397



June 12, 2013

RECEIVED
JUNE 14 2013

Anne Soiza, Assistant Director
Dept. of Labor and Industries
Division of Occupational Safety and Health
P.O. Box 44600
Olympia, WA 98504-4600

OFFICE OF THE ASSISTANT DIRECTOR
OF OCCUPATIONAL SAFETY AND HEALTH

Dear Ms. Soiza:

In light of the issuance of the Occupational Safety and Health Administration's (OSHA) Compliance Guidance for Residential Construction (STD 03-11-002), the Directorate of Cooperative and State Programs and the Directorate of Construction have begun the process of reviewing all of the corresponding State Plan standards, policies and procedures covering fall protection in residential construction.

As you may recall, the Compliance Guidance for Residential Construction (STD 03-11-002) canceled OSHA's interim enforcement policy (STD 03-00-001) on fall protection for certain residential construction activities, and requires employers engaged in residential construction to comply with 29 CFR 1926.501(b)(13). This new guidance informed State Plans that, in accordance with the Occupational Safety and Health Act (OSH Act), they must each have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as federal OSHA's program.

We are particularly concerned about the following areas where the Washington State Plan's standards and enforcement policies for fall protection differ significantly from OSHA's policies and standards, specifically in the context of residential construction:

- Washington has a 4' trigger height for fall protection in general, with 10' trigger height for roofing work on low pitched roofs; leading edge work; working on any surface that does not meet the definition of a walking/working surface not already covered in the fall protection requirements at four feet or more; and, excavation and trenching work. OSHA understands these trigger heights apply to residential construction in Washington. OSHA has a general 6' trigger height for fall protection in construction, including in residential construction. See 29 CFR 1926.501(b).
- Washington allows the use of a safety watch system as a sole source of fall protection for work other than roofing work on low pitched roofs. Federal OSHA does not allow the use of a safety monitor for such work unless the employer can demonstrate that providing

a guardrail, safety net, fall arrest, positioning, or restraint system is infeasible or creates a greater hazard; the employer must also address the use of a safety monitor in its fall protection plan.

- The Washington program also differs in several other ways that may create concerns. For example, the state program does not have a compliance directive or specific fall protection requirements pertaining to residential construction.

Please submit a detailed analysis comparing Washington's fall protection standards and enforcement policies that apply to residential construction, to OSHA's Compliance Guidance for Residential Construction (STD 03-11-002) and Subpart M of 29 CFR 1926. Pursuant to the requirements of 29 CFR 1953, please submit a copy of Washington's complete legislation, regulations, policies or procedures governing fall protection in residential construction; identify each of the differences between the state requirements and federal OSHA's requirements (include discussion of the bulleted points listed above); and provide an explanation of how each state provision is "at least as effective" as the comparable federal provision.

We appreciate your cooperation and request a response by August 12, 2013. If you have questions or would like to discuss this, please let me know.

Sincerely,

Dean Y. Ikeda
Regional Administrator

cc: Doug Kalinowski, Director, DCSP
Jim Maddux, Director, DOC
Dave Mahlum, Deputy RA
Steve Gossman, ARA/FSO
Dale Cavanaugh, ARA/OTS
Dave Baker, AD, Bellevue