

NORTH CAROLINA DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
RALEIGH, NORTH CAROLINA

Chapter 7
Subchapter 7F

CFR Revision 131B
NC-OSH

Field Information System Part I
Subpart M; Fall Protection in Construction
Elimination of Application to Steel Erection Activities

DISCUSSION:

On August 9, 1994, Federal OSHA promulgated the new occupational safety and health standard for Fall Protection in Construction at Subpart M of 29 CFR 1926. The Division of Occupational Safety and Health adopted this standard verbatim with a February 6, 1995, effective date.

OSHNC amended this standard, effective July 1, 1995, to require the use of locking snaphooks as part of personal fall arrest systems and positioning device systems. Locking snaphooks must be used in the Construction industry effective July 1, 1995, in North Carolina. The references to and requirements for snaphooks are found at 29 CFR 1926.500(b) [definition for *Snaphook*], 1926.502(d)(5), 1926. 502(e)(7) and in Appendix C, Part II(j)(1).

Federal OSHA has now amended Subpart M, *Fall Protection*, **to eliminate the application of this standard to all steel erection activities and to withdraw amendments to Subpart E** so that steel erection may again be cited under Subpart E, *Personal Protective and Life Saving Equipment*. Further, federal OSHA is relying upon a July 10, 1995 Memorandum from James W. Stanley, Deputy Assistant Secretary of Labor re: Fall. Protection in Steel Erection [See Attached]. The memo restates the interim enforcement policy regarding fall hazards in the steel erection industry. It further defines "steel erection activities," "buildings" and "tiered."

ACTION:

These amendments at 29 CFR 1926, Subpart E and Subpart M were adopted verbatim in North Carolina by the Commissioner of Labor with an effective date of October 1, 1995.

OSHNC is also adopting the enforcement policy as outlined in the Stanley Memorandum. A copy of the regulatory text from the [*Federal*](#)

[Register](#) announcement (Vol. 60, No. 148) and the July 10, 1995 Memorandum are attached. A copy of the regulatory text from the *NC Administrative Code* is also attached.

Please file this NC CFR Revision in CFR II of your Field Information System.

NOTE: Neither the now-correct version of Subpart E nor the amended version of Subpart M is printed in the most recent red-covered editions of the construction standards. You must refer back to the previous beige-covered editions of the standards to find the Subpart E language.

Date: 10/12/1995

Charles N. Jeffress, Director
Division Of Occupational Safety and Health
(Signed on Original)

Filing Date: September 28, 1995
NC Effective Date: October 1, 1995
Number: 13 NCAC 7F.0201(b)(3) and (b)(5)

Memorandum to CFR 131B – Fall Protection – Locking Snaphooks

U.S. Department of Labor, Assistant Secretary for Occupational Safety and Health,
Washington D.C. 20210

The recent decision by OSHA to delay the application of the new Subpart M-Safety Standards for or Fall Protection in the Construction Industry to steel erection activities on non-building structures (it already did not apply to steel erection activities on skeleton steel buildings), and recently expressed confusion about the February 22, 1994 memorandum on steel erection fall protection, have resulted in a need to restate the enforcement policy on fall protection during steel erection activities. Consequently, and in view of the ongoing negotiated rulemaking activities for Subpart R, the February 22, 1994 memorandum is hereby cancelled and the following is a restatement of the interim enforcement policy to be applied to fall hazards in steel erection activities.

Effective immediately and until further notice:

1. New Subpart M does not apply to steel erection activities. The term "steel erection activities" means the movement and erection of skeleton steel members (structural steel) in or on buildings and non-building structures. It includes initial connecting, moving point-to-point, installing metal floor or roof decking, welding, bolting, and similar activities. It does not mean the erection of steel members such as lintels, stairs, railings, curtainwalls, windows, architectural metalwork, column covers, catwalks, and similar non-skeletal items, nor does it mean the placement of reinforcing rods in concrete structures.

For the purposes of the stay action and this policy, the term "buildings" includes tiered and non-tiered single-story and multi-story buildings, warehouses, gymnasiums, stadiums, power plants, theaters, mill buildings, and similar structures. The term "tiered" means the skeleton steel framework is erected in vertically stacked columns; it is not limited to multi-floored structures. The term "non-building structure" includes bridges, viaducts, overpasses, towers, tanks, billboards, antennas, and similar structures.

2. Fall protection for steel erection activities shall be provided consistent with the following.
 - a. Tiered buildings:
 - i. Exterior fall hazards of 25 feet or more are covered by §1926.105(a). Exterior fall protection is not required for fall hazards of less than 25 feet.
 - ii. Interior fall hazards of 30 feet or more on buildings which have floors or are adaptable to temporary floors are covered by §1926.750(b)(2)(i). Fall protection is not required for fall hazards of less than 30 feet. Temporary floors will generally be practicable in the construction of a typical multi-floored building.
 - iii. Interior fall hazards of 25 feet or more on tiered buildings which are not adaptable to temporary floors are covered by §1926.750 (b)(1)(11). Fall protection is not required for fall hazards of less than 25 feet.
 - b. Non-tiered buildings:

Exterior and interior fall hazards of 25 feet or more are covered by §1926.105 (a).
Fall protection is not required for fall hazards of less than 25 feet

c. Non-building structures:

Exterior and interior fall hazards of 25 feet or more are covered by §1926.105(a),
Fall protection is not required for fall hazards of less than 25 feet.

3. Former (i.e. prior to February 6, 1995) paragraphs 29 CFR §1926.104, §1926.105, and 1926.107(b), (c), and (f) will continue to apply to steel erection activities.

Regional Administrators shall provide a copy of this policy to State Designees and encourage the states to adopt a similar policy. States shall be asked to advise the Region of any citation issued, and the information shall be forwarded to the above address.

MEMORANDUM FOR: OFFICE OF FIELD PROGRAMS

Regional Administrators

FROM: JAMES W. STANLEY
Deputy Assistant Secretary

SUBJECT: Fall Protection in Steel Erection.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-206B]

Safety Standards for Fall Protection in the Construction Industry

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

ACTION: Final rule; correcting amendment.

SUMMARY: Negotiated rulemaking is currently underway to develop a proposed revision of OSHA's standards for steel erection in subpart R of part 1926. That proposal is expected to include fall protection requirements for employees performing steel erection work. OSHA has concluded that the Agency's recently revised general requirements for fall protection (subpart M of part 1926) should be amended at this time to clarify that they do not apply to any steel erection activities. Therefore, OSHA is withdrawing amendments to subpart E which have not yet become effective and is amending certain provisions of subpart M of part 1926 in order to maintain the fall protection requirements for steel erection that were in effect before the issuance of revised subpart M.

EFFECTIVE DATE: This document is effective on August 2, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Liblong, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219-8151.

SUPPLEMENTARY INFORMATION:

I. Background

On August 9, 1994, the Occupational Safety and Health Administration (OSHA) issued a final rule on Fall Protection in the Construction Industry, 29 CFR part 1926, subpart M (59 FR 40672), which became effective, except as described below, on February 6, 1995. With respect to steel erection activities, the new subpart M established the duty to provide fall protection for employees engaged in steel erection in structures other than buildings (revised §§ 1926.500(a)(2)(iii), and 1926.501(b)) and established the fall protection systems criteria and training requirements for employees engaged in all steel erection work (revised §§ 1926.500(a)(2)(iii), (a)(3), (a)(4), 1926.502, and 1926.503).

On October 7, 1994, five steel erection companies petitioned OSHA for an administrative stay of final subpart M to the extent the standard applies to steel erection activities. They argued that OSHA had not given fair notice that subpart M would apply to the steel erection industry at all, and that, in consequence, they did not have the opportunity to comment on this issue.

After reviewing the rulemaking record in light of petitioner's fair notice claims, OSHA agreed that the petitioners and other interested persons did not receive adequate notice of OSHA's intention that some steel erection activities would be covered by revised subpart M. Because of the notice deficiency, OSHA recognized that the rulemaking record was incomplete with respect to steel erection and that revised subpart M was not a final rule to the extent it applied to steel erection.

Accordingly, OSHA granted the request for an administrative stay and delayed the effective date of revisions to subpart M and subpart E, to the extent they applied to steel erection, until August 6, 1995 (60 FR 5131, January 26, 1995). OSHA explained in the January 1995 notice that it intended to reopen the subpart M record for supplemental comments concerning subpart M coverage of certain steel erection work. See 60 FR 5131.

For construction activity other than steel erection, revised subpart M and supporting amendments to subparts E, H, N, P, Q, and V became effective on February 6, 1995.

At the time OSHA granted the petitioners' request for an administrative stay and delayed the effective date of revised subpart M, a negotiated rulemaking committee was in the process of developing a proposal to revise 29 CFR part 1926, subpart R. Subpart R currently applies to steel erection of buildings. The Steel Erection Negotiated Rulemaking Advisory Committee, SENRAC, was expected to issue a proposal in June 1995 which would, among other things, expand subpart R's scope. In order to avoid overlap or conflict between two rulemakings concerning steel erection fall hazards, OSHA decided to wait to reopen subpart M for additional comment concerning coverage of steel erection until after SENRAC's June proposal made clear which steel erection activities would remain unregulated by subpart R. Accordingly, OSHA delayed the effective date of revisions to subpart E and subpart M purporting to apply to steel erection for six months, or until August 6, 1995 (60 FR 5131, January 26, 1995).

To date, SENRAC has not decided which steel structures will be subject to subpart R's fall protection requirements. Accordingly, OSHA has granted SENRAC additional time to develop a proposal to revise subpart R. In light of these developments, further extending the administrative stay of subpart M would prolong indefinitely the time in which the text of the standard does not reflect the standard's actual scope. OSHA has decided therefore that subpart M should be amended at this time to accurately reflect that it does not cover steel erection and that subpart E should be amended so that the generic fall protection provisions that have applied to steel erection continue in effect.

OSHA intends, after the SENRAC proposal is issued and the scope of the subpart R revision rulemaking is definite, to formally propose to amend subpart M to include any steel erection activity omitted from the subpart R revision process.

Until subparts M and R are finally revised, the Agency's enforcement policy on fall protection during steel erection is the policy outlined in Deputy Assistant Secretary Stanley's July 10, 1995 memorandum to the Office of Field Programs, "Fall Protection in Steel Erection." The memorandum provides that the term "steel erection activities" means the movement and erection of skeleton steel members (structural steel) in or on buildings or non-building structures. It includes the initial connecting of steel, employees moving point-to-point, installing metal floor or roof decking, welding, bolting and similar activities.

The memorandum further provides that steel erection does not include the erection of steel members such as lintels, stairs, railings, curtainwalls, windows, architectural metalwork, column covers, catwalks, and similar non-skeletal items or the placement of reinforcing rods in concrete structures.

Accordingly, OSHA is amending subpart M and subpart E in order to maintain, until such time as further rulemaking procedures may be initiated and completed, the fall protection requirements for steel erection that were in effect before the issuance of revised subpart M.

II. Summary and Explanation

A. Personal Protective Equipment—Subpart E

OSHA is amending subpart E to withdraw the actions whereby the Agency removed §§ 1926.104, Safety belts, lifelines and lanyards; 1926.105, safety nets; and 1926.107 (b), (c) and (f)

(definitions for the terms "lanyard", "lifeline" and "safety belt", respectively), insofar as those provisions relate to steel erection. Through this amendment, OSHA will maintain the existing fall protection requirements for steel erection activities pending rulemaking that addresses the steel erection industry.

B. Scope and Application—Subpart M

OSHA is amending § 1926.500(a), Scope and application, of subpart M to indicate clearly that the provisions of revised §§ 1926.501, Duty to have fall protection; 1926.502, Fall protection systems criteria and practices; and 1926.503, Training requirements, do not apply to steel erection activities. The revised provision clearly indicates that subpart R and specified provisions of subpart E cover steel erection.

Exemption From Delayed Effective Date Requirement

Under 5 U.S.C. 553, OSHA finds that there is good cause for making this amendment effective upon publication in the **Federal Register**. This amendment simply maintains the fall protection requirements which have applied to the steel erection industry, notwithstanding the promulgation of subpart M, Fall protection, so it does not increase the existing regulatory burden.

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, D.C. 20210.

List of Subjects in 29 CFR Part 1926

Construction industry, Construction safety, Excavations, Fall protection, Hoisting safety, Occupational safety and Health, Protective equipment, Safety, Tools.

Accordingly, pursuant to sections 4, 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333); section 4 of the Administrative Procedure Act (5 U.S.C. 553); Secretary of Labor's Order No. 1-90 (55 FR 35736); and 29 CFR part 1911, the amendment to 29 CFR part 1926 made in the **Federal Register** on August 9, 1994 (59 FR 40672) is further amended as set forth below.

Signed at Washington, D.C. this 28th day of July 1995.

Joseph A. Dear,
Assistant Secretary of Labor.

PART 1926—[AMENDED]

Subpart E—[Amended]

1. The authority citation for subpart E of part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); 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 applicable.

2. Amendatory items 4, 5, 6, and 7 to subpart E, published in the **Federal Register** issue of August 9, 1994 (59 FR 40729) and stayed in the issue of January 26, 1995 (60 FR 5131), are withdrawn.

Subpart M—Fall Protection

3. The authority citation for subpart M of part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, 8, 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.

4. Paragraphs (a)(2)(iii), (a)(3)(iv) and (a)(4) of § 1926.500 are revised to read as follows:

§ 1926.500 Scope, application, and definitions applicable to this subpart.

(a) * * *

(2) * * *

(iii) Requirements relating to fall protection for employees performing steel erection work are provided in § 1926.105 and in subpart R of this part.

* * * * *

(3) * * *

(iv) Section 1926.502 does not apply to steel erection activities. (Note: Section 1926.104 sets the criteria for body belts, lanyards and lifelines used for fall protection in steel erection activities. Paragraphs (b), (c) and (f) of § 1926.107 provide definitions for the pertinent terms).

(4) Section 1926.503 sets forth requirements for training in the installation and use of fall protection systems, except in relation to steel erection activities.

* * * * *

[FR Doc. 95-18921 Filed 8-1-95; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; Information and Informational Materials

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Treasury Department is amending the Cuban Assets Control Regulations (the "Regulations") to bring the Regulations into conformity with amendments to the Trading with the Enemy Act concerning information and informational materials included in the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

EFFECTIVE DATE: August 2, 1995.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: 202/622-2480, or William B. Hoffman, Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

Section 525 (b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Pub. L. 103-236, 108 Stat. 474, amended section 5(b)(4) of the Trading with the Enemy Act, 50 U.S.C. App. 1-44 ("TWEA"), to expand the list of items considered to be information or informational materials to include compact discs, CD ROMs, artworks, and news wire feeds. In addition, section 5(b)(4) of TWEA, as