

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, NC

Field Information System

CPL 02-01-046

Subject: Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors; Revisions to OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34).

A. Discussion.

On September 30, 2009, OSHA issued this directive to rescind two questions (#23 and #25) in directive CPL 02-01-034 (CPL 2-1.34). North Carolina will rescind only question #23 per this directive as the North Carolina state specific rule, 13 NCAC 7F.0205 requires the retention of Question #25.

References to the Field Information Reference Manual (FIRM) and regional administrator or other federal personnel will mean the North Carolina Field Operations Manual and the appropriate OSH Division management person (district supervisor, bureau chief, assistant director or director), respectively. Additionally,

B. Action.

CSHO's will use this CPL in conjunction with CPL 02-01-034 (CPL 2-1.34), CPL 02-01-040 and the most current version of OPN 121 when conducting steel erections inspections.

C. Effective Date.

This notice is effective on the date of signature. It will remain in effect until revised or canceled by the director.

Signed on Original

Ed Lewis
Safety Standards Officer

Signed on Original

Allen McNeely
Director

12/02/2009

Date of Signature



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-01-046

EFFECTIVE DATE: September 30, 2009

SUBJECT: Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors; Revisions to OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34).

ABSTRACT

Purpose: The purpose of this Instruction is to rescind OSHA's de minimis policy relating to requirements regarding: (1) fully planked or decked floors or nets, which was announced in Question and Answer #23 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002, and (2) the use of pre-installed shear connectors during steel erection, which was announced in Question and Answer #25 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002.

This Instruction does not alter any other provisions of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), which remains in full force and effect.

Scope: OSHA-wide.

References: OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34) Question and Answer #23 and Question and Answer #25.

Cancellations: Question and Answer #23 and Question and Answer #25 of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34).

State Impact: Notice of Intent and Equivalency is required. See Paragraph VI.

Action Offices: National, Regional, and Area Offices

Originating Office: Directorate of Construction

Contact: (202) 693-2020
Directorate of Construction,
N3468, FPB
200 Constitution Ave., N.W.
Washington, D.C. 20210

By and Under the Authority of

Jordan Barab,
Acting Assistant Secretary

Executive Summary

The purpose of this Instruction is to rescind OSHA's de minimis policy relating to requirements regarding: (1) fully planked or decked floors or nets, which was announced in Question and Answer #23 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002, and (2) the use of pre-installed shear connectors during steel erection, which was announced in Question and Answer #25 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002. A copy of Instruction CPL 02-01-034 (formerly CPL 2-1.34) can be found on the web at:

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2730

Significant Changes

This Instruction amends OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34) issued March 22, 2002, as follows:

1. In Chapter 4, Section V, Structural Steel Assembly, Question and Answer #23, a policy was announced in which a failure to comply with the requirement in 29 C.F.R. 1926.754(b)(3) for a fully planked or decked floor or net was considered a de minimis violation where the employer required that all workers be protected by fall protection. The Agency is rescinding that policy.
2. In Chapter 4, Section V, Structural Steel Assembly, Question and Answer #25, a policy was announced in which a failure to comply with a requirement in 29 C.F.R. 1926.754(c)(1) that shear connectors be field-installed after installation of decking would be considered a de minimis violation where the employer required that all workers be protected by fall protection. The Agency is rescinding that policy.

This Instruction does not alter any other provisions of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), which remains in full force and effect. The revision to Question and Answer #23 is effective as of September 30, 2009. The de minimis policy described in the original version of Question and Answer #25 will continue to apply where the component was fabricated with shear connectors or other similar devices prior to September 30, 2009, or where the contract date for fabrication of the component with factory-installed shear connectors or other similar devices was prior to September 30, 2009. In all other instances the revised version of Question and Answer #25 is effective as of September 30, 2009. The text of the OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34) on the web will be amended accordingly within two weeks of the issuance date.

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I. **Purpose:** The purpose of this Instruction is to rescind OSHA's de minimis policy relating to requirements regarding: (1) fully planked or decked floors or nets, which was announced in Question and Answer #23 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002, and (2) the use of pre-installed shear connectors during steel erection, which was announced in Question and Answer #25 in OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), issued March 22, 2002. A copy of Instruction CPL 02-01-034 (formerly CPL 2-1.34) can be found on the web at:

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2730

This Instruction does not alter any other provisions of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), which remains in full force and effect.

II. **Scope.** OSHA-wide.

III. **References.** OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34).

IV. **Cancellations.** Question and Answer #23 and Question and Answer #25 of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34).

V. **Action Offices.** National, Regional, and Area Offices.

VI. **Federal Program Change.** Notice of Intent and Equivalency Required. This Instruction rescinds OSHA's de minimis policy relating to requirements regarding: (1) fully planked or decked floors or nets, as contained in Question and Answer #23, and (2) the use of pre-installed shear connectors during steel erection, as contained in Question and Answer #25, of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), Inspection Policies and Procedures for OSHA's Steel Erection Standard, issued March 22, 2002.

States with OSHA-approved State Plans must have a compliance directive on their steel erection standard that is at least as effective as Federal OSHA's CPL 02-01-034 (formerly CPL 2-1.34) and which must be available for review. If a State has a similar de minimis policy as those described in this Instruction, then the State, in order to maintain its at least as effective status, must modify its policies to reflect this Federal change by either amending its underlying steel erection directive or adopting the changes in the manner described in this Instruction.

States are required to notify OSHA whether they intend to adopt the change in policies and procedures identical to those contained in this Instruction or adopt or maintain different inspection policies and procedures for their steel erection standard for construction. If a State adopts or maintains policies and instructions that differ from Federal OSHA's, the State must identify the differences in its policies and either post its

different policies on its State Plan website and provide the link to OSHA or provide a copy to OSHA with information on how the public may obtain a copy from the State. If the State adopts identical policies and procedures, it must provide the date of adoption to OSHA. In responding to this change in policy, States are asked to provide a copy or link to ALL of their Steel Erection enforcement policies and procedures, including these modifications. OSHA will provide summary information on the State responses to this Instruction on its website.

VII. Background. Section 1926.754(b)(3) allows an employer to choose among two options for complying with the provision: install either a (fall protection) net or a floor within two stories or 30 feet (whichever is less). These options provide different safety benefits.

A net provides effective fall protection for workers engaged in certain steel erection activities (initial connecting and decking) who, under 1926.760(b)(3) and (c), are permitted to work without using fall protection. It also provides fall protection in the event of non-compliance with the fall protection requirements in 1926.760.

Although a floor in this context does not provide effective fall protection, it limits the fall distance. Also, unlike a net, a floor “can be used as a staging area for emergency rescue.” (see volume 66 of the Federal Register, January 18, 2001, at page 5213). Finally, another provision, 1926.759(b), requires falling object protection if other construction processes are permitted to work below steel erection activities. The installation of a floor provides such protection and therefore can serve as a means of complying with 1926.759(b).

Section 1926.754(c) is an engineering control designed to help prevent tripping, and therefore reduces the risk of injury from falling on a shear connector as well as from falling from structural steel. While it is not a comprehensive method of protecting workers from falls, it is a means of reducing the risk of a fall occurring.

Falls continue to be the leading cause of fatalities among construction workers, including workers engaged in steel erection. The Agency believes that it is important to encourage employers to consistently use fall protection at all times for all workers exposed to fall hazards. However, in light of the safety benefits accorded by sections 1926.754(b)(3) and 1926.754(c), OSHA has concluded that it is inappropriate to consider the violation of these provisions to be de minimis on the basis that personal protective equipment is in use. Therefore, OSHA has revised Qs & As 23 and 25 to indicate that the use of 100 percent fall protection is not a basis for considering a failure to comply with these provisions as de minimis.

VIII. Significant Changes. This Instruction amends OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34) issued March 22, 2002, as follows:

A. In Chapter 4, Section V, Structural Steel Assembly, Question and Answer #23, a policy was announced in which a failure to comply with the requirement in 29

C.F.R. 1926.754(b)(3) for a fully planked or decked floor or net was considered a de minimis violation where the employer required that all workers be protected by fall protection. The Agency is rescinding that policy. The revised Question and Answer #23 shall read:

Question 23: Section 1926.754 (b)(3) requires a “fully planked or decked floor or nets” in multi-story structures within two stories or 30 feet, whichever is less. Section 1926.760 requires workers above 15 feet to be protected from falls, with two exceptions: section 1926.760(b)(3) and (c) allows workers engaged in certain steel erection activities (initial connecting; decking in a Controlled Decking Zone) below 30 feet to work without using fall protection. Can an employer’s requirement that all workers be protected by fall arrest equipment, including those engaged in connecting and decking, take the place of compliance with the 1926.754(b)(3) floor/net requirement?

Answer: No. While OSHA encourages employers to exceed the fall protection requirements of the standard and have all workers use fall protection, section 1926.754(b)(3) provides additional safeguards. Therefore, such an employer would be required to comply with 1926.754(b)(3).

The revision of Question and Answer #23 is effective as of the issuance date of the directive.

B. In Chapter 4, Section V, Structural Steel Assembly, Question and Answer #25, a policy was announced in which a failure to comply with a requirement in 29 C.F.R. 1926.754(c)(1) that shear connectors be field-installed after installation of decking would be considered a de minimis violation where the employer required that all workers be protected by fall protection. The Agency is rescinding that policy. The revised Question and Answer #25 shall read:

Question 25: If an employer requires the use of fall protection for all workers, including workers engaged in connecting and decking, would the employer still be required to comply with 1926.754(c)(1) – would the employer still be prohibited from erecting beams, joists or beam attachments with shop-installed shear connectors?

Answer: Yes. While OSHA encourages employers to exceed the fall protection requirements of the standard and have all workers use fall protection, section 1926.754(c)(1) is an engineering control that helps prevent tripping, which helps to prevent injury from falling on a shear connector and helps to prevent falls. Therefore, such an employer

would be required to comply with section 1926.754(c)(1).

NOTE: Phase-in of revision: This revised version of Q & A 25 will not be applied where: (1) the component was fabricated with shear connectors or other similar devices prior to September 30, 2009, or (2) the contract date for fabrication of the component with factory-installed shear connectors or other similar devices was prior to September 30, 2009. In all other instances the revised version of Question and Answer #25 is effective as of September 30, 2009.

This Instruction does not alter any other provisions of OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34), which remains in full force and effect. The revision to Question and Answer #23 is effective as of September 30, 2009. The de minimis policy described in the original version of Question and Answer #25 will continue to apply where the component was fabricated with shear connectors or other similar devices prior to September 30, 2009, or where the contract date for fabrication of the component with factory-installed shear connectors or other similar devices was prior to September 30, 2009. In all other instances the revised version of Question and Answer #25 is effective as of September 30, 2009. The text of the OSHA Instruction CPL 02-01-034 (formerly CPL 2-1.34) on the web will be amended accordingly within two weeks of the issuance date.