

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1926****Compliance Directive for Fall Protection in Residential Construction**

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

**ACTION:** Notice of Significant Enforcement Policy Change; Rescission of Interim Fall Protection Compliance Directive for Residential Construction.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is issuing compliance directive STD 03–11–002 Fall Protection in Residential Construction. This directive rescinds compliance directive STD 03–00–001, Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction, effective on June 18, 1999. There continue to be high numbers of fall-related fatalities in residential construction. The Advisory Committee on Construction Safety and Health, the National Association of Home Builders, and the Occupational Safety and Health State Plan Association have recommended the withdrawal of directive STD 03–00–001.

**DATES:** *Effective date:* June 16, 2011.

**FOR FURTHER INFORMATION CONTACT:**

*General information and press inquiries:* Ms. Mary Ann Garrahan, Acting Director of the Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

*Technical inquiries:* Contact Mr. Garvin Branch, Directorate of Construction, Room N–3468, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020 or fax (202) 693–1689.

*Electronic copies of this Federal Register notice:* Go to OSHA's Web site (<http://www.osha.gov>), and select "Federal Register," "Date of Publication," and then "2010."

**SUPPLEMENTARY INFORMATION:**

*Background.* Under 29 CFR 1926.501(b)(13), workers engaged in residential construction six (6) feet or more above lower levels generally must be protected by conventional fall protection (*i.e.*, guardrail systems, safety net systems, or personal fall arrest systems). However, if an employer can demonstrate that such fall protection is infeasible or presents a greater hazard, it may implement a written fall

protection plan meeting the requirements of § 1926.502(k).

After OSHA promulgated § 1926.501(b)(13) in 1994, representatives of the residential construction industry argued that they needed more compliance flexibility than the standard allowed. As a result, OSHA issued Instruction STD 3.1 on December 8, 1995. STD 3.1 set out an interim compliance policy that permitted employers engaged in certain residential construction activities to use specified alternative procedures instead of conventional fall protection. These alternative procedures could be used without a prior showing of infeasibility or greater hazard and without a written, site-specific fall protection plan.

On June 18, 1999, the Agency issued STD 3–0.1A (subsequently re-designated STD 03–00–001), which was a plain language replacement for STD 3.1. And shortly after issuing STD 03–00–001, OSHA published an Advanced Notice of Proposed Rulemaking (ANPR). (64 FR 38077, July 14, 1999). The Agency noted that publication of that notice marked the "begin[ning] of its \* \* \* evaluation \* \* \* of" STD 03–00–001. In the ANPR, the Agency noted that there had been "advances in the types and capability of commercially available fall protection equipment" since the promulgation of § 1926.501(b)(13) (64 FR at 38080), and stated that it "intend[ed] to rescind \* \* \* [STD 03–00–001] unless persuasive evidence \* \* \* [was] submitted \* \* \* demonstrating that for most residential construction employers complying with \* \* \* [§ 1926.501(b)(13)] is infeasible or presents significant safety hazards." (64 FR at 38078).

*Summary of Action.* In Directive STD 03–11–002 OSHA rescinds STD 03–00–001. In the new directive, OSHA describes the comments it received in response to the ANPR and concludes that it did not receive "persuasive evidence" showing a continued need for STD 03–00–001. OSHA notes that there continue to be high numbers of fall-related fatalities in residential construction. Directive STD 03–11–002, also describes more recent developments, including recommendations from the Advisory Committee on Construction Safety and Health, the National Association of Home Builders, and the Occupational Safety and Health State Plan Association, that provide independent support for the Agency's decision to rescind STD 03–00–001.

Directive STD 03–11–002 sets forth OSHA's interpretation of "residential construction" for purposes of 29 CFR 1926.501(b)(13) and explains that

existing compliance guidance referencing STD 03–00–001 will be withdrawn or revised as appropriate.

**Authority and Signature**

This document was prepared under the authority of David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), and Secretary of Labor's Order 4–2010 (75 FR 55355).

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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**DEPARTMENT OF THE TREASURY****Fiscal Service****31 CFR Part 208**

**RIN 1510–AB26**

**Management of Federal Agency Disbursements**

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (Treasury), Financial Management Service (FMS), is amending its regulation to require recipients of Federal nontax payments to receive payment by electronic funds transfer (EFT), effective May 1, 2011. The effective date is delayed until March 1, 2013, for individuals receiving Federal payments by check on May 1, 2011; and for individuals who file claims for Federal benefits before May 1, 2011, and request check payments when they file. Individuals who do not choose direct deposit of their payments to an account at a financial institution would be enrolled in the Direct Express® Debit MasterCard® card program, a prepaid card program established pursuant to terms and conditions approved by FMS. Treasury waives the EFT requirement for recipients born prior to May 1, 1921, who are receiving payments by paper check on March 1, 2013; for payments not eligible for deposit to a Direct Express® prepaid card account; and for recipients whose Direct Express® card has been suspended or cancelled. In addition, this rule establishes the criteria under which a payment recipient may request a waiver if the