



California Professional Association of Specialty Contractors

June 7, 2019

Occupational Safety & Health Standards Board
Attn: Christina Shupe, Executive Officer
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

RE: Standardized Regulatory Impact Assessment: Title 8, Residential Fall Protection Standards, dated March 2019. Submitted to the CA Department of Finance May 29, 2019.

Dear Ms. Shupe,

In collaboration with the California Framing Contractors Association(CFCA), we wish to provide the following commentary on the above referenced Assessment. The Assessment contains many data points and analyses. We will focus on those tables that present the facts of costs associated with this potential regulatory change. Also, the Assessment describes the differences in long term projections of housing construction between the Department of Finance(DOF) and the California Building Industry Association(CBIA). Since Governor Newsom and the California Legislature have both declared a housing crisis in California; and have declared an urgency to build much more housing supply, we believe the DOF projections are more appropriate for this Assessment.

1. We are disappointed in the significant errors in the Assessment.
2. The costs presented in the Assessment are substantially understated.
 - a. The Assessment describes the cost of the proposed fall protection regulatory changes per Table 6 on page 16, and Table 13 on page 26 as:
 - i. For 2020, costs of \$63.78 Million, reduced by \$63.59 Million in Benefits, resulting in a **net cost of \$.19 Million.**
 - ii. For 2030, costs of \$105.70 Million, reduced by \$63.59 Million in Benefits, resulting in a **net cost of \$42.11 Million.**
 - b. The **actual costs**, to be explained more fully below, from an accurate portrayal of Table 6 on Page 16, and Table 13 on page 26; are:
 - i. For 2020, costs of \$140.18 Million, reduced by \$31.44 Million in Benefits, resulting in a **net cost of \$108.74, or \$108.55 Million more than the Assessment stated.**
 - ii. For 2030, costs of \$238.71 Million, reduced by \$31.44 Million in Benefits, resulting in a **net cost of \$207.27 Million, or \$165.16 Million more than the Assessment stated.**
3. Following is the breakdown on how those costs were miscalculated in the Assessment.
 - a. Benefits:
 - i. The Assessment discusses, but makes no allowance for the exposure of employees who must install and disassemble the fall protection equipment. This is one of the main points that

Federal OSHA never addressed or responded to. Workers will be exposed to hazardous conditions during this installation and disassembly process. We believe conservatively, that the following reductions in proposed benefits be made.

1. For Avoided mortality, we believe the ratio is likely to be the same number of fatalities from fall protection installers and disassemblers as reduced for workers performing framing or roofing work. At the very least for Assessment purposes, we should reduce the expected saving of 2.8 lives to 1.8 lives. This reduces the amount on Table 8 to \$15.89 Million, from \$24.72 Million.
 2. For Avoided injuries, there are two required revisions.
 - a. Per the above discussion, there will be many more injuries involving those who install and disassemble the fall protection.
 - b. Also, the Assessment utilized an average of 643 "fall-related injuries in residential construction" for the calculation. In residential construction, many falls are on the same level, down stairs, off of ladders, or off of porches, etc.
 - c. Based on these two factors, we believe a conservative estimate would be to multiply the 643.8 times a 40% reduction in these injuries, multiplied by the average costs of \$60,372. This reduces the Avoided injuries total to \$15.55 Million from \$38.87 Million.
 3. Table 6 should read \$15.89 Million for Avoided Mortality, and \$15.55 Million for Avoided Injuries, with a total of \$31.44 Million.
- b. Framing Costs:
- i. The Assessment makes significant incorrect assumptions about framing costs.
 1. The Assessment states that 50% of framing employees will be protected by tie-off fall protection systems. As was explained by myself and others to the researchers, a framing contractor has nothing to tie off to, for fall protection for workers. The framing contractor is framing the structure so that when the first floor or first story framing is completed, the structure will finally have the height and strength to attach a personal fall protection tie-off system to. A tie-off system does not provide effective fall protection for framing employees under 15 feet.
 2. The Assessment also states that 10% of framing contractors will utilize a fall protection plan. A fall protection plan requires infeasibility of conventional fall protection, and provides no physical protection for workers. When CALPASC and CFCA spent multiple advisory committee meetings with Labor and Cal/OSHA personnel to develop Section 1716.2, all agreed that this

section would cover the contingencies, and make it extremely difficult to declare infeasibility, and use a fall protection plan. This is one of the major differences between Federal OSHA Fall Protection rules and Cal/OSHA's. We have worked to avoid having any fall protection plans in residential construction in California. They are still allowed by Federal OSHA, and many contractors utilize them for first story and one story projects in states outside California.

3. All framing operations under this proposed regulation would be 100% covered by scaffolding.
4. The correct costs are those described in Table 13 on page 26, as under the Stricter Alternative.
- ii. The actual framing costs, therefore, are those listed under the stricter alternative of Table 13 on page 26. \$97.87 Million for 2020, and \$187.79 Million for 2030.
- c. Roofing Costs:
 - i. The Assessment again makes significant incorrect assumptions about residential roofing costs.
 - ii. Unlike framing construction, roofing contractors can make utilization of tie-off systems for one story or two story construction. Therefore, we can use the Proposed Section for roofing outlined in Table 13 on page 26. The amounts will likely be understated somewhat, because again, no fall protection plan will be able to be utilized. CALPASC was the sponsoring association of reducing the trigger height in production residential roofing work to 15 feet from 20 feet. The idea was to again make it extremely difficult to declare infeasibility.
 - iii. The significant error in the Assessment regarding roofing is in the residential re-roofing section. While discussed in the early part of the Assessment, the calculation was left out that all re-roofing and custom home construction will now be required to provide fall protection at a 6 foot trigger height instead of the current 20. Fall protection would now be required for both one and two story residential work.
 - iv. The Assessment estimates that 25% of current housing stock is one story. We believe that is a low number, because this involves historic housing stock, 13 Million units built over the last 150 years. New construction has more multi-family and more stories, but historically most housing was one or two story.
 - v. At a minimum, it would be expected that the combined re-roofing operations that involve one and two story housing would be 50% of the total per year. Therefore, the proposed number for Re-roofing in Table 13 on page 26, should be doubled. It currently only uses the 25% figure. This changes the Proposed numbers to \$38.32 Million from \$19.16 Million in 2020; and \$43.70 Million from \$21.85 Million in 2030.
4. Following are all the major errors in the Assessment. We would appreciate these errors being corrected, and a revised Assessment produced.

- a. Obviously all the cost numbers as already discussed.
- b. The Assessment doesn't address in a meaningful way the huge housing crisis we have in this state. Any unnecessary regulation that increases the cost of housing exacerbates a crisis large number of Californians are suffering under. Too many individuals and families find housing unaffordable, or have to forgo important expenditures to pay for their housing needs. The social cost of any over-regulation in housing has exponential ripple effects on Californians.
- c. On page 5, it should be noted that Section 1716.2 has requirements that take effect below 15 feet already, such as proscriptions for joisting work up to 15 feet.
- d. The first paragraph of page 6 should reflect that the lower trigger heights include lowering housing re-roofing operations and custom home roofing operations from 20 feet to 6 feet. This would require fall protection now for both one story and two story housing. The first and second paragraphs of page 7 should also be corrected with this information.
- e. The first paragraph of page 8 needs to be revised per the above discussions on compliance options. Framing contractors will require that 100% of fall protection for first story or one story housing units be provided by scaffolding. There are no other safe alternatives. Roofing contractors will use a combination of scaffolding or tie-off systems, but will not be using fall protection plans.
- f. The second paragraph of page 8 as well as the Harness System costs shown in Table 3 on page 9 need to be corrected. To protect an employee with a personal fall protection system, the following high quality equipment is required. A harness(\$45), Self Retractable Lifeline(\$660), and an anchor(\$25 to 300). The equipment has an average life of 2 years, so the cost per employee is not \$32 per year, but \$428.
- g. The third paragraph of page 8 and the Section on Fall Protection plans in Table 3 on page 9 need to be removed in their entirety. CALPASC nor CFCA or our labor colleagues have any interest in fall protection plans being utilized in residential construction.
- h. On page 9, Table 3 shows as Source: California Professional Association of Specialty Contractors. I was verbally interviewed for the Assessment, but provided none of the information included in Table 3. As stated above, much of it is erroneous. CALPASC needs to be completely removed as the Source. **I must respectfully request this be retracted in writing.**
- i. As stated in item "b" above, the DOF projections should be clearly shown as the appropriate projections to use. The bottom paragraph on page 9 should reflect this.
- j. The bottom paragraph on page 10 should be deleted. Again, no framing contractor will be utilizing a tie-off system for first story or one story housing construction.
- k. Table 4 on page 11 should be revised based on the overall corrections with the information imported to it.



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- l. The first full paragraph on page 13 should reflect that both one and two story housing units being re-roofed will need fall protection. The number should double from 143,191 to 286,382.
- m. The Direct Benefits discussed on pages 16 through 18 need to be revised per the above discussions.
- n. Section 5.1.1 regarding More Stringent Regulatory Alternatives needs to be shown as not an alternative, but the only compliance that is effective. The only other alternative is discussed in section 5.1.2 on page 27. This section needs to be revised per the discussion on exposure of those workers who install and disassemble the fall protection systems.
- o. Per the above discussions, Table 13 on page 26 should be revised as follows:

	2020	2030
New Roofs	\$3.99	\$7.22
Re-roofing	\$38.32	\$43.70
Framing	\$97.87	\$187.79
Total	\$140.18	\$238.71

Sincerely,

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