



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA-2025-0072]

RIN 1218-AD73

Walking-Working Surfaces

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule removes a deadline in OSHA's Walking-Working Surfaces standard by which all fixed ladders that extend more than 24 feet above a lower level must be equipped with personal fall arrest systems or ladder safety systems. Additionally, OSHA is seeking comment on repealing or revising the requirement that employers use personal fall arrest systems on all fixed ladders over 24 feet tall and instead permitting employers to continue to use ladder cages or wells.

DATES: Comments and other information, including requests for a hearing, must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Informal public hearing: OSHA will schedule an informal public hearing on the rule if requested during the comment period. If a hearing is requested, the location and date of the hearing, procedures for interested parties to notify the agency of their intention to participate, and procedures for participants to submit their testimony and documentary evidence will be announced in the *Federal Register*.

ADDRESSES:

Written comments: You may submit comments and attachments, identified by Docket No. OSHA-2025-0072, electronically at <https://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA-2025-0072). When uploading multiple attachments to <https://www.regulations.gov>, please number all of your attachments because <https://www.regulations.gov> will not automatically number the attachments. This will be very useful in identifying all attachments. For example,

Attachment 1—title of your document,

Attachment 2—title of your document,

Attachment 3—title of your document.

For assistance with commenting and uploading documents, please see the Frequently Asked Questions on <https://www.regulations.gov>.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

Docket: The docket for this rulemaking (Docket No. OSHA-2025-0072) is available at <https://www.regulations.gov>, the Federal eRulemaking Portal. Most exhibits are available at <https://www.regulations.gov>; some exhibits (*e.g.*, copyrighted material) are not available to download from that web page. However, all materials in the dockets are available for inspection at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT:

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*Copies of this **Federal Register** notice:* Electronic copies are available at <https://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's web page at <https://www.osha.gov>. A "100-word summary" is also available on <https://www.regulations.gov>.

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I. Executive Summary

This proposed rule is intended to provide greater compliance flexibility for employers subject to the requirements in OSHA's Walking-Working Surfaces standard (29 CFR, Subpart D). OSHA is proposing to remove a provision that sets a deadline (November 18, 2036) for the installation of personal fall arrest systems or ladder safety systems on all fixed ladders that extend more than 24 feet above a lower level. This change is based on the agency's reassessment of certain assumptions in the 2016 final rule (81 FR 82494) that established this deadline. The requirement to ensure that any new or replacement fixed ladders are equipped with a personal fall arrest system or ladder safety system would be maintained. Consistent with the agency's

original intent for this provision, this change will allow employers to update their ladders when the ladders reach the end of their service lives, accommodating the lengthy service life of fixed ladders while significantly reducing costs and offering greater flexibility.

II. Legal Authority and Preliminary Findings

The purpose of the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) (“the Act” or “the OSH Act”) is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651(b)). To achieve this goal, Congress authorized the Secretary of Labor (“the Secretary”) to promulgate standards to protect workers, including the authority “to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce” (29 U.S.C. 651(b)(3); see also 29 U.S.C. 654(a)(2) (requiring employers to comply with OSHA standards), 29 U.S.C. 655(a) (authorizing summary adoption of existing consensus and established federal standards within two years of the Act’s enactment), 29 U.S.C. 655(b) (authorizing promulgation, modification or revocation of standards pursuant to notice and comment)). An occupational safety and health standard is “... a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment” (29 U.S.C. 652(8)).

Before OSHA may promulgate a health or safety standard, it must find that a standard is reasonably necessary or appropriate within the meaning of section 652(8) of the OSH Act. As required by the OSH Act, OSHA determined when promulgating the Walking-Working Surfaces standard that the standard would substantially reduce a significant risk of material harm (see 81 FR 82494, 82497 (November 18, 2016)). When, as here, OSHA has previously determined that its standard substantially reduces a significant risk, it is unnecessary for the agency to make additional findings on risk for every provision of that standard (*see, e.g., Pub. Citizen Health Research Grp. v. Tyson*, 796 F.2d 1479, 1502 n.16 (D.C. Cir. 1986) (rejecting the argument that

OSHA must “find that each and every aspect of its standard eliminates a significant risk”). Rather, once OSHA makes a general significant risk finding in support of a standard, the next question is whether a particular requirement is reasonably related to the purpose of the standard as a whole (*see Asbestos Info. Ass’n/N. Am. v. Reich*, 117 F.3d 891, 894 (5th Cir. 1997); *Forging Indus. Ass’n v. Sec’y of Labor*, 773 F.2d 1436, 1447 (4th Cir. 1985); *United Steelworkers of Am., AFL-CIO-CLC v. Marshall*, 647 F.2d 1189, 1237-38 (D.C. Cir. 1980) (“*Lead I*”). The revision proposed here does not affect the agency’s previous determination that the fixed ladder requirements in 29 CFR 1910.28(b)(9) are reasonably related to the purpose of the Walking-Working Surfaces standard.

A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that is reasonably expected to be developed (*see Am. Iron and Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991)). Courts have also interpreted technological feasibility to mean that a typical firm in each affected industry or application group will reasonably be able to implement the requirements of the standard in most operations most of the time (*see, e.g., Public Citizen v. OSHA*, 557 F.3d 165, 170-71 (3d Cir. 2009) (citing *Lead I* at 1272)).

In the 2016 final rule, OSHA determined that the fixed ladder requirements in 29 CFR 1910.28(b)(9) are technologically feasible (*see* 81 FR 82801). OSHA is not revisiting that finding. Because this proposed rule would merely remove a deadline for compliance with the existing requirement, OSHA preliminarily finds that this proposal would present no technological feasibility issues for employers.

In determining economic feasibility, OSHA must consider the cost of compliance in an industry rather than for individual employers. In its economic analyses, OSHA “must construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms” (*Am. Iron and Steel Inst.*, 939 F.2d at 980, quoting *Lead I* 647

F.2d at 1272). OSHA has preliminarily determined that this proposal is economically feasible because this action is deregulatory and imposes no additional costs. OSHA’s economic analysis is presented in Section V.

The Administrative Procedures Act directs agencies to include in each rule adopted “a concise general statement of [the rule’s] basis and purpose” (5 U.S.C. 553(c)); cf. 29 U.S.C. 655(e) (requiring the Secretary to publish a “statement of reasons” for any standard promulgated). This notice satisfies this concise statement requirement.

III. Background

OSHA first promulgated the Walking-Working Surfaces standard in 1971 (36 FR 10466). OSHA finalized the current Walking-Working Surfaces standard in 2016 (81 FR 82494). The standard contains fall protection requirements for fixed ladders that extend more than 24 feet above a lower level, among other provisions. In the 2016 final rule, OSHA noted that the revised standard reflected advances in technology and made the standard consistent with more recent OSHA standards and national consensus standards (81 FR 82494).

On July 28, 2025, OSHA received a letter on behalf of member companies of the American Fuel & Petrochemical Manufacturers (AFPM), American Chemistry Council (ACC), and American Petroleum Institute (API) (the “industry petition”), petitioning the agency to initiate rulemaking that would repeal the requirement to use personal fall arrest systems on all fixed ladders that extend more than 24 feet above a lower level and allow employers to continue to use cages and wells or, alternatively, that would allow the use of cages and wells on these ladders and require installation of personal fall arrest systems or ladder safety systems only on the ladders installed or modified after a new final rule (Ex. OSHA-2025-0072-0002). The letter states that retrofitting existing fixed ladders with personal fall arrest systems or ladder safety systems imposes extraordinary costs on the industry with “very little, if any, safety enhancement.” The member companies contend that these expenses are unjustified, as there have been very few incidents involving fixed ladders.

This rulemaking proposes removing the fixed deadline from 29 CFR 1910.28(b)(9)(i). For the reasons discussed below and consistent with Executive Order (E.O.) 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and the goal of significantly reducing the private expenditures required to comply with Federal regulations to secure American’s economic prosperity and national security and the highest possible quality of life for each citizen, OSHA preliminarily concludes that removing the fixed deadline from 29 CFR 1910.28(b)(9)(i) will reduce the compliance burden on the regulated community while effectuating OSHA’s original intent for this provision. OSHA seeks comment on the proposed change and this preliminary conclusion.

IV. Summary and Explanation of the Proposed Requirements

OSHA is proposing to revise paragraph (b)(9) of its general industry Walking-Working Surfaces fall protection standard (29 CFR 1910.28) by removing the deadline for employers to install a personal fall arrest system or ladder safety system on fixed ladders (that extend more than 24 feet above a lower level) by November 18, 2036 (29 CFR 1910.28(b)(9)(i)(D)). Removing this deadline will allow fixed ladders with cages or wells to remain in use until the end of their service lives without an installed personal fall arrest or ladder safety system. Once these fixed ladders, cages, or wells are replaced, including due to reaching the end of their service lives, a personal fall arrest system or ladder safety system would need to be installed in at least that replaced section of the fixed ladder, cage, or well pursuant to existing paragraph (b)(9)(i)(C). Similarly, the requirement in existing paragraph (b)(9)(i)(B) that any new fixed ladders must be equipped with a personal fall arrest system or ladder safety system would remain unchanged.

In explaining its decision to adopt a 20-year compliance deadline, OSHA stated in the 2016 final rule that it “set the extended phase-out period to take into account normal replacement and average useful life of fixed ladders, cages, and wells” (81 FR 82494). The agency estimated

that, within 20 years, “the large majority of fixed ladders will have been replaced or in need of replacement.” In selecting a compliance date subsequent to the replacement or service duration of the “vast majority” of fixed ladders, OSHA sought to avoid undue burdens for employers by providing them “ample time to plan and carry out this transition as part of their normal business and replacement cycles, instead of retrofitting fixed ladders” (81 FR 82603). Indeed, OSHA’s assessment of the economic feasibility of the requirement relied on this assumption (81 FR 82611).

The concerns raised by the industry petition draw into question OSHA’s assumption in the 2016 final rule that 20 years is sufficient to ensure that most employers can come into compliance with the fixed ladder fall protection requirements through their normal business and replacement cycles. By removing the fixed deadline in paragraph (b)(9)(i)(D) while maintaining the replacement requirements in existing paragraph (b)(9)(i)(C), this proposed revision would accomplish OSHA’s original intent while reducing future economic burdens by avoiding costly retrofitting of currently compliant fixed ladders that have cages and wells, are in good repair, and that are not at the end of their service lives.

As an alternative to removing the compliance deadline as discussed above, the petitioners requested the repeal of the requirement that employers use personal fall arrest systems on all fixed ladders over 24 feet tall and that OSHA permit them to continue to use ladder cages or wells. OSHA therefore requests comment on whether it should remove the requirement that employers use personal fall arrest systems on all fixed ladders over 24 feet tall. OSHA welcomes additional evidence regarding the costs and benefits of cages, wells, and personal fall arrest systems, and ladder safety systems, and whether cages and wells provide equivalent safety outcomes compared to personal fall arrest systems or ladder safety systems across relevant industries and ladder configurations. Employers must continue to ensure fixed ladders meet all applicable ladder requirements in 29 CFR 1910.23, Ladders, and the general requirements for all

walking-working surfaces in section 1910.22, which sets requirements for safe loads, safe access and egress, inspection, general maintenance, and good repair.

The agency preliminarily concludes that the proposed revision to 29 CFR 1910.28(b)(9)(i) would best effectuate the agency's intent in the 2016 final rule while also serving the goals of reducing undue burden and improving compliance with OSHA's fall protection requirements. OSHA does not have evidence to suggest that removal of the deadline in section 1910.28(b)(9)(i)(D) will significantly impact the safety benefits identified in the 2016 final rule. In the final rule, OSHA estimated the rule would prevent 11.4 ladder-related fatalities and 2,161 ladder-related lost-workday injuries per year across all ladder types and all covered employers (81 FR at 82674). This includes fatalities and injuries prevented by all ladder-related provisions of the final rule, including the portable and fixed ladder design and use requirements in section 1910.23 and the fall protection requirements in section 1910.28. OSHA expects this proposed rule to only impact a small subset of affected ladders: fixed ladders between 24 and 30 feet in length¹ that do not currently have a ladder safety system or personal fall arrest system installed and that would not be replaced by November 2036.

OSHA is unable to determine whether any of the potential fatalities or injuries avoided due to the 2016 final rule would be associated with the limited scope of this proposal; that is, whether any of those fatalities or injuries would occur among this subset of ladders in the time between 2036 and the later date at which these ladders will now be replaced. However, OSHA expects the impact of this proposal to be small. One reason is that many if not most fixed ladders covered by the 2016 final rule are still likely to be replaced by 2036. Another is that this proposal merely extends the time provided for employers to come into compliance with the fall protection requirements of section 1910.28(b)(9), it does not eliminate the requirement. Finally, OSHA anticipates that most workplaces with affected ladders are likely to have at least some ladders

¹ In the 2016 final rule, OSHA determined that fixed ladders more than 30 feet in length already use a ladder safety system or personal fall arrest system and therefore employers would not need to retrofit those ladders to comply with section 1910.28(b)(9)(i) (81 FR at 82930).

with personal fall arrest systems or ladder safety systems installed and employees of those employers will therefore have been trained to recognize fall hazards related to these ladders. As explained in the 2016 final rule, OSHA expects that the increased level of worker training on personal fall arrest systems and ladder safety systems required by the final rule, and the heightened recognition of related fall hazards resulting from this training, will contribute to the prevention of injuries and fatalities from falls from ladders (81 FR at 82784-82785). Based on this, the agency preliminarily determines that this proposal is not likely to result in a meaningful increase in risk to workers and the standard as a whole would remain highly protective. OSHA requests comments regarding these changes including any relevant scientific studies or other evidence.

V. Preliminary Economic Analysis

A. Estimated Cost Savings

This proposed rule would allow employers more time to come into compliance with 29 CFR 1910.28(b)(9)(i), and therefore OSHA has preliminarily concluded that there would be no additional costs imposed by these proposed revisions. OSHA also anticipates that there would be significant cost savings associated with this rule, based on employers being able to avoid retrofitting or replacing current fixed ladders equipped with cages and wells while those fixed ladders are still within their useful service life. Because this rule would impose no new costs, OSHA has made a preliminary determination that the rule would be economically feasible.

In the industry petition cited earlier, the petitioners state that a survey of their member companies indicated these companies have “incurred significant costs before the physical work of retrofitting has begun”; that one company alone “has spent thousands of hours over the last two years conducting fixed ladder assessments in anticipation of the work . . . \$1.2 million just to identify which ladders are affected”; and that another “company estimates that it will spend \$5 million to do the same” (Ex. OSHA-2025-0072-0002).

The petitioners further state that their members, if made to comply with the ladder safety/personal fall arrest system requirements, would spend more than \$1.2 billion to bring more than 22,000 ladders into compliance. They further noted that their member survey “represents just over one-third of the petroleum refineries in the country and a tiny fraction of other chemical manufacturing facilities.” Extrapolating from these results, petitioners suggest that this requirement could cost more than \$3 billion across the U.S. refining industry (Ex. OSHA-2025-0072-0002). Based on the limited information provided by the petitioners, OSHA is unable to ascertain whether there are unique aspects of the industries represented by the petitioners that would drive costs higher than OSHA’s 2016 estimate. The agency welcomes comment on whether the petitioner’s estimates are representative of costs in other industries.

In the 2016 final economic analysis, OSHA estimated that annualized costs of the final rule would total \$305 million (81 FR 82847). Of those total costs, OSHA estimated that retrofitting fixed ladders between 24 feet and 30 feet in height with ladder safety and personal fall arrest systems would total \$8.5 million in multi-year aggregated costs, or \$1.2 million in annualized costs, for the approximately 109,200 fixed ladders affected by the requirement (29 CFR 1910.28(b)(9)) mandating replacement of cages and wells after November 2036 (81 FR 82841). This estimate accounted for the costs of new equipment and time for installation (2 hours per ladder) and relied on the assumptions regarding the useful life of fixed ladders that the agency is now reconsidering. If OSHA underestimated the useful life of affected ladders, then a larger percentage of affected employers would need to retrofit existing ladders to comply with the November 2036 deadline, resulting in higher costs than originally estimated.

Based on petitioners’ data, OSHA calculates a compliance cost of \$55,000 per ladder (\$1.2 billion divided by 22,000 ladders rounded to the nearest thousand); however, other entities in the petitioners’ industry not surveyed could indicate different potential cost savings associated with the other two-thirds of this industry’s ladders, thus the \$55,000 estimate may not reflect the true average. By applying these per-ladder compliance costs to an estimated 66,000 ladders in

this industry sector (extrapolating the petitioner's report of 22,000 ladders in one third of the industry to the whole industry), OSHA estimates cost savings over \$3.6 billion could be achieved in this sector alone by eliminating the compliance deadline. OSHA seeks public comment on these estimates.

OSHA requests comments and data on whether and to what extent the agency underestimated the number of ladders in other covered industries that would need to be retrofitted or replaced to comply with the deadline in 29 CFR 1910.28(b)(9)(i)(D). If OSHA also underestimated the number of affected ladders in other industries, the total cost savings of this proposal could be significantly higher.

Request for comment

To assist OSHA in evaluating the potential costs or cost savings that would result from this proposed rule, the agency requests comments, data, and information on the following:

1. OSHA requests public comments on the service life of fixed ladders that extend more than 24 feet above a lower level. Additionally, OSHA requests details used to evaluate factors affecting remaining service of these ladders.
2. OSHA requests public comments on what other assumptions might be driving the difference between the 2016 cost estimates and the costs claimed in the industry petition, including assumptions regarding the extent to which ladder safety and personal fall arrest systems are already installed on fixed ladders above 24 feet.
3. OSHA requests public comments on the petitioners' compliance cost estimates noted above for identifying, assessing, and retrofitting fixed ladders affected by paragraph 1910.28(b)(9).
4. OSHA requests public comments on the agency's estimate of cost savings that would result from eliminating the need for employers to retrofit existing fixed ladders in the petitioners' industry sector to meet paragraph 1910.28(b)(9)'s November 18, 2036, deadline.
5. OSHA requests data and information on the installation costs of ladder safety systems and personal fall arrest systems on fixed ladders over 24 feet in height in other industries. The agency

requests that the commenters elaborate on the resource inputs that contribute to the estimate of total costs, where possible, with specific details on facility type, the operational use (function) of the ladder, frequency of climbs, the type and components of the fall safety system currently installed, the cost of replacing a fixed ladder (on a per-foot or per-section basis if appropriate), the timing of a retrofit (proximity to 2036) if the 2016 rule were to remain in place without revision, and the type of fall safety system projected for retrofitting affected fixed ladders. The petitioners identified 22,000 ladders that would be affected by the 2016 final rule's deadline for replacement in portions of two industries. OSHA requests additional information on the number of fixed ladders in petroleum refineries, chemical manufacturing, and other industries that might be affected by this proposed rule.

6. OSHA requests data from all interested parties on current (baseline) practices for the provision of fall protection on fixed ladders, including survey data on the extent of existing practices among affected employers for assessing the performance and effectiveness of fall prevention systems on fixed ladders, as well as survey data on current, baseline administrative controls such as manager familiarization, training, and recordkeeping.
7. If employers have already incurred costs or cost savings as a result of implementing paragraph 1910.28(b)(9)(i), please describe in detail (for example, cost or cost savings per worker, per process unit, or per production operation) the size and scope of the costs or cost savings, and the size and scope of any benefits that have been achieved from the changes in the use of fall safety systems on fixed ladders.
8. OSHA invites all stakeholders to comment on any technological, economic, and safety-related impacts of the proposed removal of paragraph 1910.28(b)(9)(i)(D).
9. OSHA requests comment on whether it should repeal or revise the requirement that employers use personal fall arrest systems on all fixed ladders over 24 feet. OSHA welcomes additional evidence regarding whether cages and wells provide equivalent safety outcomes compared to

personal fall arrest systems or ladder safety systems across relevant industries and ladder configurations.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Act requires each IRFA to describe regulatory alternatives that would “minimize any significant economic impact of the proposed rule on small entities.” 5 U.S.C. 603(c). Each FRFA must describe “steps the agency has taken to minimize the significant economic impact on small entities.” *Id.* § 604(a)(6). The term “significant economic impact,” as used in the Act to trigger IRFA and FRFA requirements, thus refers to *adverse* economic impacts that should be minimized.

OSHA reviewed this proposed rule under the provisions of the Regulatory Flexibility Act. This rule would eliminate a regulatory requirement and reduce compliance burdens on both small and large employers. Therefore, OSHA certifies that the revision would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. OSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under Executive Order 12866

E.O. 12866, “Regulatory Planning and Review” (58 FR 51735 (Oct. 4, 1993)), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent

practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this proposed rule is a “significant regulatory action” under the criteria in section 3(f) of E.O. 12866. Accordingly, this proposed rule was submitted to OIRA for review under E.O. 12866.

VI. Additional Requirements

A. Requirements for States with OSHA-Approved State Plans

Under section 18 of the OSH Act (29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards that are “at least as effective” as the Federal standards in providing safe and healthful employment and places of employment (29 U.S.C. 667). OSHA refers to these OSHA-approved, State-administered occupational safety and health programs as “State Plans.”²

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, State Plans must either amend their standards to be identical to, or “at least as effective as,” the new Federal standard or amendment, or show that an existing State Plan

² Of the 29 States and U.S. territories with OSHA-approved State Plans, 22 cover public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The remaining six States and one U.S. territory cover only State and local government employees: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and the Virgin Islands.

standard covering this issue is “at least as effective” as the new Federal standard or amendment (29 CFR 1953.5(a)). However, when OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plans do not have to amend their standards, although they may opt to do so. OSHA has preliminarily determined this proposed rule does not impose additional or more stringent requirements than the existing standard, and therefore State Plans are not required to amend their standards. OSHA seeks comment on this assessment of its proposal.

B. OMB Review Under the Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) defines “collection of information” to mean “the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format” (44 U.S.C. 3502(3)(A)). Under the PRA, a federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and the agency displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512(a)(1)). The process for OMB approval is found in 5 CFR Part 1320. This proposed rule would impose no new information collection requirements. Because the proposed revisions do not affect the currently approved information collections, OMB approval is not required for this proposed rule.

C. Environmental Impacts/National Environmental Policy Act (NEPA)

OSHA has reviewed this proposed rule according to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), as amended by the Fiscal Responsibility Act of 2023 (Pub. L. No. 118-5, § 321, 137 Stat. 10), and the Department of Labor’s NEPA procedures (29 CFR part 11). Under the Department’s regulations, the “[p]romulgation, modification or revocation of any [OSHA] safety standard” is categorically excluded from the requirement to

prepare an environmental assessment absent extraordinary circumstances indicating the potential for significant environmental effects (29 CFR 11.10(a)(1)). OSHA has preliminarily determined that no such extraordinary circumstances exist, and that this proposal would have no impact on the quality of the human environment.

D. Other Statutory and Executive Order Considerations

OSHA has considered its obligations under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 et seq.) and the Executive Orders on Consultation and Coordination With Indian Tribal Governments (E.O. 13175, 65 FR 67249 (Nov. 6, 2000)), Federalism (E.O. 13132, 64 FR 43255 (Aug. 10, 1999)), and Protection of Children From Environmental Health Risks and Safety Risks (E.O. 13045, 62 FR 19885 (Apr. 23, 1997)). Given that this is a proposed deregulatory action that involves the removal of requirements, does not result in any Federal mandates, and does not constitute a policy that has federalism or tribal implications, OSHA has determined that no further agency action or analysis is required to comply with these statutes and executive orders. Furthermore, OSHA has determined that this proposal is consistent with the policies and directives outlined in E.O. 14192, “Unleashing Prosperity Through Deregulation.” If finalized as proposed, this NPRM is expected to be an E.O. 14192 deregulatory action.

List of Subjects in 29 CFR Part 1910

Falls, Fall arrest, Fall protection, Fixed ladders, Ladders, Ladder cages, Ladder safety systems, Ladder wells, Occupational safety and health, Personal fall arrest systems, Walking-Working Surfaces.

VII. Authority and Signature

This document was prepared under the direction of David Keeling, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), 5 U.S.C. 553, Secretary of Labor’s Order No. 8-2020 (85 FR 58393), and 29 CFR part 1911.

David Keeling,
Assistant Secretary of Labor for Occupational Safety and Health.

VIII. Regulatory Text

Proposed Amendments

For the reasons set forth in the preamble, OSHA is amending 29 CFR part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart D – Walking-Working Surfaces

1. The authority citation for subpart D is revised to read as follows:

AUTHORITY: 29 U.S.C. 653, 655, and 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008); 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), 8-2020 (85 FR 58393), or 7-2025 (90 FR 27878); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

2. Amend § 1910.28 by removing paragraph (b)(9)(i)(D) and revising paragraph (b)(9)(i) to read as follows:

§ 1910.28 Duty to have fall protection and falling object protection.

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(b) * * *

(9) * * *

(i) * * *

(A) Existing fixed ladders. Each fixed ladder installed before November 19, 2018 is equipped with a personal fall arrest system, ladder safety system, cage, or well;

(B) New fixed ladders. Each fixed ladder installed on and after November 19, 2018, is equipped with a personal fall arrest system or a ladder safety system; and

(C) Replacement. When a fixed ladder, cage, or well, or any portion of a section thereof, is replaced, a personal fall arrest system or ladder safety system is installed in at least that section of the fixed ladder, cage, or well where the replacement is located.

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