

airspace extending upward from 700 feet above the surface would be amended by increasing the radius to 8.5 miles (previously 7.4 miles). In addition, the geographical coordinates of Massena International-Richards Field Airport, Massena, NY, would be updated to coincide with the FAA's database.

Class E airspace designations are published in Paragraphs 6002 and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures", prior to any FAA final regulatory action.

### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6002 Class E Surface Airspace.*  
\* \* \* \* \*

#### AEA NY E2 Massena, NY [Amend]

Massena International-Richards Field Airport, Massena, NY  
(Lat. 44°56'10" N, long. 74°50'42" W)

That airspace extending upward from the surface within a 6.0-mile radius of the Massena International-Richards Field Airport excluding that airspace outside of the United States.

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*  
\* \* \* \* \*

#### AEA NY E5 Massena, NY [Amend]

Massena International-Richards Field Airport, Massena, NY  
(Lat. 44°56'10" N, long. 74°50'42" W)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Massena International-Richards Field Airport excluding that airspace outside of the United States.

Issued in College Park, Georgia, on May 13, 2021.

**Andree C. Davis,**

*Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2021–10432 Filed 5–19–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket ID—OSHA—2020—0009]

RIN 1218–AD28

#### Walking-Working Surfaces

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** OSHA is proposing changes to the Walking-Working Surfaces standards to clarify which handrail and stair rail system requirements apply to new stair rail systems.

**DATES:** Submit comments (including comments on the information collection (paperwork) determination described under the section titled **SUPPLEMENTARY INFORMATION** of this document), hearing requests, and other information by July 19, 2021. All submissions must bear a postmark or provide other evidence of the submission date. (See the following section titled **ADDRESSES** for methods you can use in making submissions.)

**ADDRESSES:** Comments may be submitted as follows:

*Electronically:* You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

#### FOR FURTHER INFORMATION CONTACT:

*Press inquiries:* Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

*General and technical information:* Mark Hagemann, Director, Office of Safety Systems, OSHA Directorate of Standards and Guidance; telephone: (202) 693–2222; email: [hagemann.mark@dol.gov](mailto:hagemann.mark@dol.gov).

*Electronic copies of this notice:* Go to OSHA's website (<http://www.osha.gov>), and select "Federal Register," "Date of Publication," and then "2021." Additional information for submitting documents. See section XI ("Public Participation") of this notice.

#### SUPPLEMENTARY INFORMATION:

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### I. Background

On November 18, 2016, OSHA published a final rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) in the **Federal Register** (81 FR 82494). Since that time, OSHA has received many questions and requests for interpretation of the requirements for handrails and stair rail systems. From the number of questions and requests, OSHA believes there is confusion in the stakeholder community regarding when handrails are required on stairs as well as what the height requirements are for handrails on stairs and for stair rail systems, depending on date of installation. With this notice, OSHA is proposing language that it believes is clearer without changing the intent of the 2016 final rule. OSHA encourages interested parties to submit comments regarding the proposed language. Please note that OSHA is not re-opening for discussion any of the regulatory decisions made in the 2016 rulemaking. This rulemaking is focused solely on clarifying the requirements finalized in that rulemaking and providing flexibility in the transition from OSHA's previous requirements to the new ones.

### II. Legal Authority

The purpose of 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 to promulgate and enforce occupational safety and health standards (29 U.S.C. 655(b), 657, 658).

An occupational safety and health standard “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)).

As part of determining that a standard is reasonably necessary or appropriate within the meaning of 29 U.S.C. 652(8), OSHA must determine that the standard is technologically feasible and substantially reduces a significant risk of harm to workers.

A standard is technologically feasible if the protective measures it requires already exist, available technology can bring these measures into existence, or there is a reasonable expectation for developing the technology that can produce these measures. See, e.g., *Am. Iron & Steel Inst. v. OSHA (Lead II)*, 939 F.2d 975, 980 (D.C. Cir. 1991) (per curiam). In the 2016 rulemaking, OSHA determined that the requirements of the walking-working surfaces standard were technologically feasible (81 FR 82800). The proposed revisions to that standard would not require any new equipment, practices, or procedures not already addressed in the previous technological feasibility finding, so OSHA preliminarily determines that the proposed rule would be technologically feasible.

The final rule for OSHA's 2016 standard contained an extensive analysis in which the agency concluded that employees face a significant risk of death or serious injury from stairway falls (81 FR 82496). When, as here, OSHA has previously determined that the 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., *Public 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. (*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)). As explained elsewhere in this preamble, this proposed rule meets this test. OSHA is proposing revisions to the standard that are intended to give effect to OSHA's original intent in the 2016 rule with respect to handrails on open staircases and to clarify it with respect to the height of top-rail handrails.

### III. Summary and Explanation of the Proposed Rule

OSHA is proposing changes to two provisions of the walking-working surfaces standard, Subpart D. The first, amending § 1910.28(b), clarifies that a stair rail system<sup>1</sup> with a handrail<sup>2</sup> is required on the open side of certain stairways. The second, amending § 1910.29(f), eases a restriction on previously-installed stair rail systems by allowing the top rail of those systems to serve as a handrail when it is as low as 30 inches.

#### *Section 1910.28 Duty To Have Fall Protection and Falling Object Protection*

Existing § 1910.28(b)(11)(ii) contains requirements for when handrails and stair rail systems must be present on certain flights of stairs. The provision refers to existing Table D–2, *Stairway Handrail Requirements*, which specifies handrail requirements based on the variables of stair width and how many sides of the stairway are open. Existing Table D–2 contains a formatting error that inadvertently omits several words from the table with two open sides and a width of less than 44 inches. A cell in the table currently contains the words “One stair rail system each open side,” but OSHA intended the cell to state: “One stair rail system *with handrail* on each open side (emphasis added).” OSHA is proposing to correct the cell to reflect the language that OSHA proposed in 2010 (see table on 75 FR 29141) and intended to finalize, as discussed in the summary and explanation section of the 2016 final rule: “Final paragraph (b)(11)(ii), consistent with . . . proposed paragraph (b)(11)(ii), requires . . .” (81 FR 82611). This language means that on new stair rail systems, both sides would need handrails. OSHA invites comment on this proposed correction.

OSHA recognizes that some employers may have already relied on the inadvertent error in existing Table D–2 when installing stair rail systems covered by this correction (stair width less than 44 inches, open on both sides). It is not OSHA's intent for any stair rail system installed before the effective date of a new final rule to need modification, so long as that system was in compliance with OSHA requirements at the time it was installed. OSHA is therefore proposing two separate provisions for stairs with two open sides

<sup>1</sup> *Stair rail or stair rail system* means a barrier erected along the exposed or open side of stairways to prevent employees from falling to a lower level (as defined in 29 CFR 1910.21).

<sup>2</sup> *Handrail* means a rail used to provide employees with a handhold for support (as defined in 29 CFR 1910.21).

and a width of less than 44 inches: The corrected requirements for new handrails and stair rail systems (located in Table D–2), and a separate provision to retain the current requirements for already existing handrails and stair rail systems. Proposed § 1910.28(b)(11)(ii) would address new stair rail systems through the corrected Table D–2, *Stairway Handrail and Stair Rail System Requirements*. OSHA would add proposed § 1910.28(b)(11)(iii) to maintain the existing requirements for flights of stairs less than 44 inches (1.1 m) wide, with two open sides, and installed before the effective date of a final rule that would result from this rulemaking. Those stairways would be required to have a stair rail system on each open side, but would not need to include a handrail.

With the addition of proposed paragraph (b)(11)(iii), existing paragraph (b)(11)(iii) would be redesignated as (b)(11)(iv) with no change to the regulatory text.

#### *Section 1910.29 Fall Protection Systems and Falling Object Protection—Criteria and Practices*

OSHA is proposing to reorganize provisions in § 1910.29(f) to address confusion in the stakeholder community on the application of existing § 1910.29(f)(1)(iii)(A). OSHA has received many questions and requests for letters of interpretation asking when the top rail of a stair rail system may also serve as a handrail (*i.e.*, “combination” top rails). In the 2016 rulemaking, OSHA had allowed the top rail of stair rail systems to serve as a handrail when two conditions were met: (1) The height of that stair rail system is not less than 36 inches and not more than 38 inches, as measured at the leading edge of the stair tread to the top surface of the top rail; and (2) the stair rail system was installed before the effective date of the rule (January 17, 2017).<sup>3</sup> However, installations at those height specifications were technically precluded by OSHA’s previous standard, which mandated the top rail of a stair rail system to be between 30 and 34 inches. The 2016 final rule did not specifically address combination handrail requirements for stair rail systems that have a top rail height not less than 30 inches (the previous

minimum height for a stair rail system) and up to 36 inches. Moreover, OSHA has become aware that employer confusion over that part of the 2016 rulemaking has led to some employers relying on the top rail of stair rail systems as a “combination” handrail for various heights at 38 inches or below for installations after January 2017, despite OSHA’s new minimum 42-inch requirement for top stair rails.

In light of the employer confusion following the 2016 rulemaking regarding the height requirements for combination top rails, OSHA is proposing to expand the height range in proposed paragraph (f)(1)(ii)(A) to state that the top rail of stair rail systems installed prior to the effective date of a new final rule can serve as a hand rail if that top rail is 30 to 38 inches in height, and meets the other handrail requirements of paragraph (f). OSHA is not proposing to require employers to modify otherwise compliant stair rail systems installed between January 17, 2017, and the date of any final rule resulting from this proposal.

OSHA is also proposing to revise the captions for Figures D–12 and D–13 to clarify that they are depicting only height requirements for handrails and combination handrail and stair rail systems installed before the effective date of a new final rule. They do not depict any other requirements for handrails and stair rail systems contained in § 1910.29(f). OSHA is also proposing to add Figure D–13A to further clarify height requirements for handrails and stair rail systems installed on or after the effective date of a new final rule.

OSHA requests comment on these proposed changes.

#### **IV. Preliminary Economic and Initial Regulatory Flexibility Screening Analysis**

Executive Orders 12866 and 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)) require that OSHA estimate the benefits, costs, and net benefits of regulations, and analyze the impacts of certain rules that OSHA promulgates. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

In the 2016 rulemaking, OSHA provided these analyses (81 FR 82670). Those analyses would not be impacted by this proposed rule. OSHA does not anticipate any significant effects on the costs or benefits identified in the 2016 rulemaking from the proposed revisions to § 1910.28 and § 1910.29 addressing

handrails and stair rail systems. This proposal reorganizes the rule in a clearer, more logical manner and further explains OSHA’s intent. Although OSHA proposes to amend § 1910.28 to correct an inadvertent error in the 2016 rule—handrails should have been required on the open side of a stairway—OSHA anticipates that this correction will result in no costs or cost savings. Because the agency had estimated full current compliance (*i.e.*, full current industry practice) with that proposed requirement, costs for that requirement in both the 2016 economic analysis and the economic analysis of the proposal for that rulemaking were zero. Moreover, and as discussed above, OSHA anticipates this proposed rule will not have a significant impact on the benefits of the 2016 standard because it will generally maintain the same level of safety and health protections for workers. The agency requests public comment on this preliminary assessment.

As discussed earlier in this preamble, with respect to § 1910.28(b)(11) Stairways, it is not OSHA’s intent for any stair rail system installed before January 17, 2017, to need modification, so long as that system was in compliance with OSHA requirements at the time it was installed. With respect to § 1910.29(f)(1) Handrails and stair rail systems; Height criteria, OSHA did not intend for any of the “grandfathered” stair rail systems that had a top rail height between 30 and 38 inches to need to be modified if the stair rail system was installed before January 17, 2017, and it complied with the previous rule. OSHA is therefore proposing to clarify that the top rail of stair rail systems installed prior to January 17, 2017, can serve as a handrail if that top rail is 30 to 38 inches in height and meets the other handrail requirements of paragraph (f). In the economic analysis of the 2016 rule, OSHA did not identify costs for employers to modify existing handrails or stair rail systems in any of those scenarios, so OSHA is not identifying any potential cost savings that might be attributed to the avoidance of those modifications.

OSHA recognizes the possibility that employers who installed a separate handrail on an existing stair rail system incurred compliance costs associated with the regulatory text for § 1910.29(f)(1) Handrails and stair rail systems, as published in the 2016 final rule. OSHA lacks the data to quantify any potential cost savings for employers who would not need to add additional handrails to stair rail systems in accordance with the 2016 rulemaking that effectively precluded combination

<sup>3</sup> OSHA effectively foreclosed the use of the top rail as a handrail for stair rail systems installed after January 17, 2017. OSHA stated in the 2016 final rule, “. . . because the final rule requires that all stair rail systems installed on or after the effective date, which is January 17, 2017, to be at least 42 inches in height, final paragraph (f)(1)(iii)(A) is only applicable to stair rail systems installed before the effective date” (81 FR 82630).

stair rails for new installations after January 17, 2017. Therefore, OSHA characterizes any potential cost savings from this proposed rulemaking in qualitative terms and not quantitatively, and the agency requests public comment on this question of potential cost savings from the proposed clarification of the regulatory language for § 1910.29(f)(1) Handrails and stair rail systems.

Because this action will impose no new or additional compliance burden on the affected employers and therefore no new or additional costs, OSHA has determined that the proposed revisions to the standard are economically feasible. OSHA requests public comment on this preliminary assessment.

This proposed rule is not an “economically significant regulatory action” under Executive Order 12866 or UMRA, or a “major rule” under the Congressional Review Act (5 U.S.C. 801 *et seq.*). Neither the benefits nor the costs of this proposed rule would exceed \$100 million in any given year. Furthermore, because the proposed rule would not impose any costs, OSHA certifies that it would not have a significant impact on a substantial number of small entities.

#### V. Applicability of Existing National Consensus Standards

Section 6(b)(8) of the Occupational Safety and Health Act of 1970 (“the Act”; 29 U.S.C. 655(b)(8)) requires OSHA to publish “a statement of the reasons why the rule as adopted will better effectuate the purposes of the Act than the national consensus standard.” OSHA included that explanation when it adopted new rules in the 2016 rulemaking (81 FR 82807). This proposed rule would modify two of the provisions adopted in 2016, but does not adopt separate new rules.

#### VI. OMB Review Under the Paperwork Reduction Act of 1995

This proposal to update and revise the requirements for handrails and stair rail systems in the Walking-Working Surfaces Standards contains no information collection requirements subject to OMB approval under the Paperwork Reduction Act of 1995 (PRA), U.S.C. 3501 *et seq.*, and the implementing regulations at 5 CFR part 1320. The 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 OMB approves it, and the agency displays a valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provision of law, no employer shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB control number (44 U.S.C. 3512). The information collections related to walking-working surfaces standards for general industry—29 CFR 1910.23(b)(10), 29 CFR 1910.27(b)(1)(i) and (ii), and 29 CFR 1910.28(b)(1)—have been approved under OMB control number 1218–0199. The existing currently approved information collections would not be affected by this proposal and therefore would go forward unchanged. The Department welcomes any comments on this preliminary determination.

#### VII. Federalism

OSHA reviewed this NPRM in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that federal agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Any such preemption must be limited to the extent possible.

Under section 18 of the Occupational Safety and Health Act of 1970 (“OSH Act”; 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; states that obtain federal approval for such a plan are referred to as “State-Plan States” (29 U.S.C. 667). Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the federal standards. Subject to these requirements, State-Plan States are free to develop and enforce their own requirements for occupational safety and health standards.

OSHA previously concluded that promulgation of subpart D complies with Executive Order 13132 (81 FR 82975). That analysis applies to this proposed rule, which would clarify several provisions and expand the number of existing stair rail systems

exempted from modification requirements; therefore, this proposed rule complies with Executive Order 13132.

#### VIII. State Plans

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, states and U.S. territories with their own OSHA-approved occupational safety and health plans (“State Plans”) must either amend their standards to be identical or “at least as effective as” the new standard or amendment, or show that an existing state standard covering this area is “at least as effective” as the new federal standard or amendment (29 U.S.C. 667(c)(2); 29 CFR 1953.5(a)). State Plans’ adoption must be completed within six months of the promulgation date of the final federal rule. 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 OSHA may encourage them to do so.

Of the 28 states and 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 territories cover only state and local government employees: Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands.

The proposed amendments to § 1910.28(b), clarifying that a handrail is required on the open side of certain stairways, are important corrections that are necessary for worker protection. OSHA has preliminarily determined that within six months of the rule’s final promulgation date, each State Plan would be required to review its standards and revise their standards to include this handrail requirement unless the State Plan can demonstrate that such revisions are not necessary because the existing standards, and the enforcement of the standards, are already at least as effective.

The proposed amendments to § 1910.29(f) expand the existing grandfather provision for previously-installed stair systems, are permissive, and are clarifying in nature without imposing any new requirement. OSHA does not view the proposed amendments as more stringent than the existing standard, so OSHA has preliminarily determined that State

Plans would not be required to adopt the expanded grandfather provision. State Plans States may, however, choose to conform their standards to allow employers this increased flexibility.

OSHA invites comments on these preliminary determinations.

**IX. Unfunded Mandates Reform Act**

OSHA reviewed this proposed rule according to the Unfunded Mandates Reform Act of 1995 (“UMRA”; 2 U.S.C. 1501 *et seq.*) and Executive Order 13132 (64 FR 43255). As discussed above in section IV of this preamble (“Preliminary Economic Analysis and Initial Regulatory Flexibility Screening Analysis”), the agency does not expect the private-sector employers to incur any new costs not previously accounted for in the economic analysis of the 2016 rule. While this proposed rule establishes a federal mandate in the private sector, it is not a significant regulatory action within the meaning of section 202 of the UMRA (2 U.S.C. 1532).

Under voluntary agreement with OSHA, some states enforce compliance with their state standards on public sector entities, and these agreements specify that these state standards must be equivalent to OSHA standards. Thus, although OSHA had included compliance costs for the affected public sector entities in the analysis of the expected impacts associated with the 2016 rulemaking, neither that rulemaking nor this proposal would involve any unfunded mandates being imposed on any state or local

government entity. Consequently, this proposed rule does not meet the definition of a “Federal intergovernmental mandate” (See section 421(5) of the UMRA (2 U.S.C. 658(5))). Therefore, for the purposes of the UMRA, the agency preliminarily certifies that this proposed rule does not mandate that state, local, and tribal governments adopt new, unfunded regulatory obligations.

**X. Consultation and Coordination With Indian Tribal Governments**

The Department has reviewed this proposed rule in accordance with Executive Order 13175, (65 FR 67249 (Nov. 9, 2000)) and has determined that it does not have “tribal implications” as defined in that order. The proposed rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

**List of Subjects in 29 CFR 1910**

Falls, Handrails, Occupational safety and health, Stair rail systems, Walking-working surfaces.

**XI. Authority and Signature**

This document was prepared under the direction of James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health. This action is taken pursuant to sections 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order 1–2012 (77 FR 3912 (1/25/2012), and 29 CFR part 1911.

Signed at Washington, DC, on May 13, 2021.

**James S. Frederick,**  
*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

**XII. Proposed Regulatory Text**

Pursuant to sections 4, 6, and 8 of the OSH Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor’s Order No. 5–2007 (72 FR 31159), and 29 CFR part 1911, OSHA proposes to amend subpart D of 29 CFR part 1910 as follows:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Subpart D—Walking—Working Surfaces**

■ 1. The authority citation for part 1910, subpart D, is revised to read as follows:

**Authority:** 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), 1–90 (55 FR 9033), 1–2012 (77 FR 3912), and 08–2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

■ 2. Amend § 1910.28 by revising paragraph (b)(11) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(11) \* \* \*

(ii) Each flight of stairs, having at least 3 treads and at least 4 risers, installed on or after (date 60 days after the publication date of the final rule) is equipped with stair rail systems and handrails as follows:

**TABLE D–2—STAIRWAY HANDRAIL AND STAIR RAIL SYSTEM REQUIREMENTS**

Stair width	Enclosed	One open side	Two open sides	With earth built up on both sides
Less than 44 inches (1.1 m) .....	At least one handrail .....	One stair rail system with hand-rail on open side.	One stair rail system with hand-rail on each open side.	
44 inches (1.1 m) to 88 inches (2.2 m).	One handrail on each enclosed side.	One stair rail system with hand-rail on open side and one handrail on enclosed side.	One stair rail system with hand-rail on each open side.	
Greater than 88 inches (2.2 m)	One handrail on each enclosed side and one intermediate handrail located in the middle of the stair.	One stair rail system with hand-rail on open side, one hand-rail on enclosed side, and one intermediate handrail located in the middle of the stair.	One stair rail system with hand-rail on each open side and one intermediate handrail located in the middle of the stair.	
Exterior stairs less than 44 inches (1.1 m).	.....	.....	.....	One handrail on at least one side.

**Note to table:** The width of the stair must be clear of all obstructions except handrails.

(iii) Each flight of stairs, having at least 3 treads and at least 4 risers, that is less than 44 inches (1.1 m) wide, that has two open sides, and was installed before (date 60 days after the publication date of the final rule) must have a stair rail system on each open side, but a handrail is not required.

(iv) Each ship stairs and alternating tread type stairs is equipped with handrails on both sides.

\* \* \* \* \*

■ 3. Amend § 1910.29 by revising paragraph (f)(1) to read as follows:

**§ 1910.29 Fall protection systems and falling object protection—criteria and practices.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) For stair rail systems installed before (date 60 days after the publication date of the final rule):

(1) The height is not less than 30 inches (76 cm), as measured from the leading edge of the stair tread to the top surface of the top rail; and

(2) The top rail may serve as a handrail only when the height of the stair rail system is not less than 30 inches (76 cm) and not more than 38 inches (97 cm), as measured from the

leading edge of the stair tread to the top surface of the top rail (see Figure D-13 of this section).

(B) For stair rail systems installed on or after (date 60 days after the publication date of the final rule), the height is not less than 42 inches (107 cm), as measured from the leading edge of the stair tread to the top surface of the

top rail (see Figure D-13A of this section). Stair rail systems installed on or after (date 60 days after the publication date of the final rule), must have a separate handrail that meets the requirements of 29 CFR 1910.29(f)(1)(i).

\* \* \* \* \*

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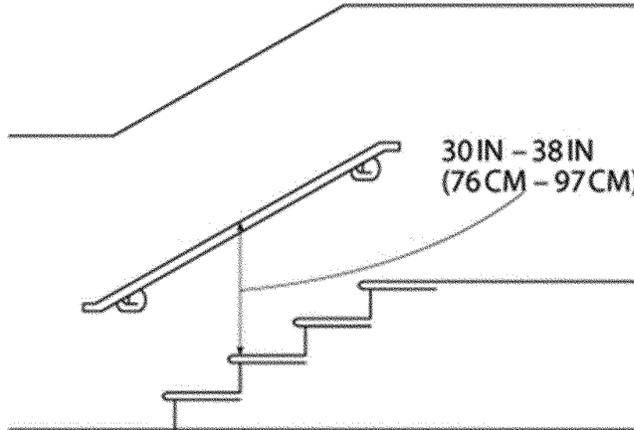


Figure D-12 – Handrail Height Measurement (all installation dates)

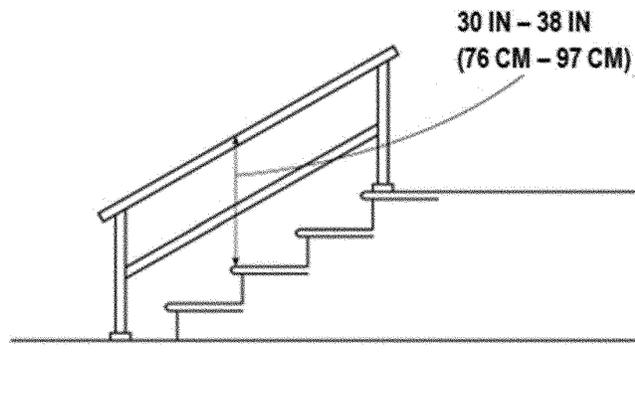


Figure D-13 – Combination Handrail and Stair Rail System Height Measurement for Stair Rail Systems Installed before (date 60 days after the publication date of the final rule)

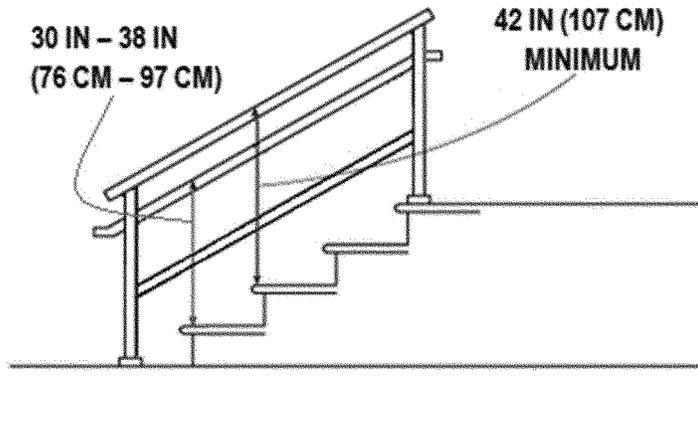


Figure D-13A – Handrail and Stair Rail Height Measurements for Stair Rail Systems

Installed on or after (date 60 days after the publication date of the final rule)

\* \* \* \* \*

[FR Doc. 2021-10561 Filed 5-19-21; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. OSHA-2019-0001]

RIN 1218-AC93

#### Hazard Communication Standard

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

**ACTION:** Proposed rule; notice of informal hearing.

**SUMMARY:** OSHA is scheduling an informal public hearing on its proposed rule “Hazard Communication Standard.” The public hearing will begin September 21, 2021 at 10:00 a.m., Eastern Time (ET). The proposed rule was published in the **Federal Register** on February 16, 2021. The initial public comment period was to end April 19, 2021, but was extended to May 19, 2021, in response to requests from the public.

**DATES:** *Informal public hearing:* The hearing will begin September 21, 2021, at 10:00 a.m., ET, and will be held virtually using WebEx. If necessary, the hearing will continue from 9:30 a.m. until 5:00 p.m., ET, on subsequent days. Additional information on how to access the informal hearing will be posted when available at [https://](https://www.osha.gov/hazcom/rulemaking)

[www.osha.gov/hazcom/rulemaking](https://www.osha.gov/hazcom/rulemaking). To testify or question witnesses at the hearing, interested persons must electronically submit their notice by June 18, 2021. In addition, those who request more than ten minutes for their presentation at the informal hearing and those who intend to submit documentary evidence at the hearing must submit the full text of their testimony, as well as a copy of any documentary evidence, no later than August 21, 2021.

#### ADDRESSES:

*Notices of Intent to Appear:* Notices of intent to appear at the hearing, along with any submissions and attachments, should be submitted electronically at <https://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions. After accessing “all documents and comments” in the docket (Docket No. OSHA-2019-0001), check the “proposed rule” box in the column headed “Document Type,” find the document posted on the date of publication of this hearing notice, and click the “Comment Now” link. When uploading multiple attachments to [www.regulations.gov](https://www.regulations.gov), please number all of your attachments because [www.regulations.gov](https://www.regulations.gov) will not automatically number the attachments. This will be very useful in identifying all attachments in the preamble. 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 [regulations.gov](https://www.regulations.gov).

*Instructions:* All submissions must include the agency’s name and the docket number for this rulemaking (Docket No. OSHA-2019-0001). 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:* To read or download comments, notices of intent to appear, and other materials submitted in the docket, go to Docket No. OSHA-2019-0001 at <https://www.regulations.gov>. All comments and submissions are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through that website. All comments and submissions, including copyrighted material, are available for inspection through the OSHA Docket Office.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** *For press inquiries:* Contact Frank

<sup>1</sup> Documents submitted to the docket by OSHA or stakeholders are assigned document identification numbers (Document ID) for easy identification and retrieval. The full Document ID is the docket number plus a unique four-digit code. OSHA is identifying supporting information in this notice by author name, publication year, and the last four digits of the Document ID.