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Washington, DC 20548

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December 5, 2016

The Honorable Lamar Alexander  
Chairman  
The Honorable Patty Murray  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable John Kline  
Chairman  
The Honorable Robert C. "Bobby" Scott  
Ranking Member  
Committee on Education and the Workforce  
House of Representatives

Subject: *Department of Labor, Occupational Safety and Health Administration: Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor, Occupational Safety and Health Administration (OSHA) entitled "Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems)" (RIN: 1216-AB80). We received the rule on November 18, 2016. It was published in the *Federal Register* as a final rule on November 18, 2016, with an effective date of January 17, 2017. 81 Fed. Reg. 82,494.

The final rule revises and updates OSHA's general industry standards on walking-working surfaces to prevent and reduce workplace slips, trips, and falls, as well as other injuries and fatalities associated with walking-working surface hazards. In addition, the final rule adds requirements to the design, performance, and use of personal fall protection systems.

Enclosed is our assessment of OSHA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that OSHA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: David Michaels, PhD, MPH  
Assistant Secretary of Labor  
Occupational Safety and Health Administration  
Department of Labor

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF LABOR,  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
ENTITLED  
“WALKING-WORKING SURFACES AND PERSONAL  
PROTECTIVE EQUIPMENT (FALL PROTECTION SYSTEMS)”  
(RIN: 1218-AB80)

(i) Cost-benefit analysis

The Department of Labor, Occupational Safety and Health Administration (OSHA) provided a table in the final rule that describes the annualized costs and benefits of the final rule. The total estimated annual costs of the final rule are \$305 million. These costs include costs for general requirements, ladders, step bolts and manhole steps, scaffold and rope descent systems, the duty to have fall protection and falling object protection, training requirements, and personal fall protection systems.

OSHA also monetized the benefits of the final rule. The benefits of this final rule are preventing injuries and fatalities. OSHA assumed a cost of \$62,000 per injury and \$8.7 million per fatality prevented. This results in a monetized benefit of \$614.5 million. Therefore, OSHA found that the net benefits of the final rule (benefits minus costs) are \$309.5 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

OSHA determined that this final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

OSHA determined that this final rule does not mandate that state, local, and tribal governments adopt new, unfunded regulatory obligations. OSHA did determine that this final rule would require general industry private-sector employers to expend about \$246.5 million each year. However, while this final rule establishes a federal mandate in the private sector, OSHA stated that this final rule is not a significant regulatory action within the meaning of section 202 of the Unfunded Mandates Reform Act. 2 U.S.C. § 1532.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 24, 2010, OSHA published a consolidated proposed rule. 75 Fed. Reg. 28,862. OSHA received 272 comments including comments from workers, employers, trade associations, occupational safety and health consultants, manufacturers, labor representatives, and government agencies. OSHA responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

OSHA stated that it is submitting information collection requests (ICRs) to revise the authority for the information collections under the Paperwork Reduction Act. OSHA will publish an additional *Federal Register* notice to announce the final Office of Management and Budget disposition on those requests.

OSHA also provided a summary of the burden hours and costs for the information collection requests. The ICR titled “Standard on Walking-Working Surfaces” is estimated to cost 498,803 burden hours at a cost of \$54,697,500, and the ICR titled “Personal Protective Equipment (PPE) for General Industry” at a cost of 3,745,218 burden hours at a cost of \$0.

Statutory authorization for the rule

OSHA promulgated this rule under 29 U.S.C. §§ 653, 655, 657; 31 U.S.C. § 9701; 29 U.S.C. § 9a; and 5 U.S.C. § 553.

Executive Order No. 12,866 (Regulatory Planning and Review)

OSHA found that this final rule is a significant regulatory action under the Order. OSHA prepared a Final Economic and Final Regulatory Flexibility analysis.

Executive Order No. 13,132 (Federalism)

OSHA determined that this final rule complies with the Executive Order.