

## Labor proposed rulemaking on walking surfaces

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On May 24, 2010, the U.S. Department of Labor's Occupational Safety and Health Administration issued a noticed of proposed rule-making in the *Federal Register* at 75 FR 28861 (available online at <http://s.dol.gov/3J>) concerning OSHA's plans to require improved worker protection from tripping, slipping, and falling hazards on walking and working surfaces.

In a press release accompanying the publication of the proposed rule, Assistant Secretary of Labor for OSHA, Dr. David Michaels, stated that, "This proposal addresses workplace hazards that are a leading cause of work related injuries and deaths."

The new standard is designed to help prevent an estimated annual 20 workplace fatalities and more than 3,500 injuries serious enough to cause people to miss work.

The proposed rule replaces a 1990 rule (55 FR 13360) and is intended to accomplish three things:

1. Reflect current industry practices and national consensus standards;
2. Harmonize provisions when possible with other OSHA provisions (e.g., construction standards in 29 CFR Part 1926 and the shipyard employment standards in 29 CFR Part 1915); and
3. Use performance-oriented language when possible, rather than specification-oriented language.

OSHA's published cost benefit analysis of the proposed rule is that it will cost employers in the aggregate \$173.2 million per year, but it will save employers \$328 million per year by preventing 3,706 injuries and 20 fatalities per year, resulting in a net annual benefit to employers of \$155.4 million.

The proposed rule is very lengthy and will require

careful examination. As with all proposed agency rules, OSHA will consider comments from the public, which must be submitted by August 23, 2010.

The proposed rule states that all 25 states which have their own safety and health plans, of which Kentucky is one, must adopt the final rule within six months of its effective date. ▲

### Obama administration wants jail time for CEOs, first ever under proposed rule

A major union OSHA proposal in Congress is increasingly showing signs of life, at least in the House of Representatives. The bill, H.R. 2067, would dramatically increase OSHA fines and subject corporate officers to prison time.

The bill is a priority of the Obama administration and organized labor. Two Kentucky congressmen, Rep. John Yarmuth, D-Louisville, and Rep. Ben Chandler, D-Lexington, have signed on as co-sponsors of the bill, which is outlined as follows.

The OSHA bill, titled Protecting America's Workers Act, would back up a promise by U.S. Department of Labor Secretary Hilda Solis to the AFL-CIO that "the DOL will once again be back in the enforcement business." As a U.S. senator in 2007, Obama co-sponsored a similar bill.

The current bill has 116 co-sponsors in the House, including 36 new ones since May — one of which is Rep. Chandler, who signed on as a co-sponsor on May 11. Yarmuth was an early co-sponsor — he was one of the first 15 co-sponsors who signed on last year.

Hearings were held on the bill in March and April. The sudden increase in co-sponsors and also the hearings suggest that Speaker Nancy Pelosi and the Democratic-controlled House want to move the bill to a floor vote before the November elections.

The key issue with the bill is stiffer penalties,

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