

June 5, 2026

Docket No. OSHA-2025-0072
OSHA Directorate of Standards & Guidance
U.S. Department of Labor
Occupational Safety and Health Administration (OSHA)
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Attn: Director Andrew Levinson at osha.dsg@dol.gov

Re: Proposed Rule to Amend OSHA’s Walking Working Surfaces Standards by Repealing Compliance Deadline for Implementing Personal Fall Arrest Systems by Nov. 18, 2036 for All Fixed Tall Ladders Over 24 Feet, 91 Fed. Reg. 17165 (Apr. 6, 2026) [[2026-06578.pdf](#)]

Dear Director Levinson:

Introduction -- The Flexible Packaging Association (FPA), the national organization representing U.S. manufacturers of flexible packaging, supports OSHA’s April 6, 2026 proposal to remove the deadline for replacing fixed ladders that extend more than 24-feet from a lower level and implementing them with personal fall arrest or ladder safety systems by Nov. 18, 2036.¹ Since the 2016 rule was published, ladder safety systems have been installed and/or replaced in flexible packaging plants at the end of an affected ladder’s useful life. FPA wants to underscore, however, that as of spring 2026, companies have replaced less than a quarter of the tall fixed ladders in their facilities because of the typically long service lives of the “affected ladders” and because of the cost of replacing them. For this reason, FPA believes it is reasonable to “repeal” the 2036 compliance date at 29 CFR 1910.28(b)(9)(i)(D), as proposed in the April 6th, 2026 Notice of Proposed Rulemaking (“NPRM” or “Notice”).

FPA also urges OSHA to study the “substantial benefits” of the Nov. 18, 2016, requirements for personal fall arrest systems at 29 CFR 1910.28(b)(9)(i)(C) in future rulemaking now that there is ten years of experience regarding their use on tall ladders, which was absent when the system requirements for the use of personal fall arrest systems were adopted.

¹ See 81 Fed. Reg. 82494 (Nov. 18, 2016). [2016-24557.pdf](#) The rule was codified at 29 CFR 1910.28(b)(9)(i)(D). If finalized, this rulemaking will remove the Nov. 18, 2036 date in subparagraph (D).

A. Background on Manufacturing Flexible Packaging Plants and Their Use of Fixed Tall Ladders (“Affected Ladders”) at Roofs, Resin Silos, and Pollution Controls

1. Affected tall ladders are used at flexible packaging plants.

Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible packaging products. The industry represents \$42.9 billion in annual sales; is the second largest and fastest growing segment of the domestic packaging industry; and employs approximately 85,000 workers throughout the United States.

Flexible packaging plant buildings are typically two-three stories-high, which is necessary to house massive rotogravure and lithographic presses and lamination and extrusion towers. A building at a plant may house one-to-three massive presses that are robotically loaded at different stations along the press with rotogravure and flexographic cylinders to print and/or coat paper and other webbed coating substrate. Extrusion towers can be five to six stories. Plants are generally required by federal and state law to have total emissions capture vented to regenerative thermal oxidizers (“RTOs”) that achieve 98-99 percent overall destruction efficiencies.

While flexible packaging plant operators generally utilize steps rather than tall ladders to access process equipment, almost all sites have tall ladders that are utilized to access roofs. Additionally, many sites also have straight ladders to access resin silos and RTO pollution control equipment. FPA’s members estimate roughly that the average flexible packaging plant building typically has 5-7 tall ladders to which the proposed standard would be applicable.

2. Replacing existing safety equipment for all existing tall fixed ladders that are not at the end of their useful lives is unnecessary and expensive.

As of the end of fiscal year 2025, members estimate that roughly 20% of affected standing ladders have been replaced at the ends of their service lives, but that only another 20-30% would be needed to be replaced within the next 5-7 years based on projections regarding their useful lives. If OSHA does not finalize the proposed rule, that leaves a significant number of retrofits of and/or replacements of ladders and/or safety fall systems to be undertaken by Nov. 18, 2026. Again, in FPA members’ view, few of the remaining affected ladders are expected to be at-or-near the end of their working lives when it would make sense to replace the ladders were it not for OSHA’s 2016 federal rulemaking. Thus, FPA supports the proposed removal of the 2036 mandatory replacement date in order to allow phased-in replacement of existing ladder safety systems on a more natural timeline when individual ladders are at the end of their useful service lives.

FPA members agree with OSHA and the Petitioners who requested repeal of the Nov. 2036 date,² that the average current cost of new and/or replacement ladders are in the neighborhood of \$55,000 apiece.³ We also are concerned that this cost does not reflect a cost of downtime in this industry of a manufacturing processes or pollution controls for installation of the ladder and personal emergency assist devices or the training time for employees, particularly for ladders for RTOs and possibly also resin silos. Moreover, we note that it would not be surprising for the cost of such affected ladders and personal safety systems to spiral higher by 2030 because of higher demand and lower availability if OSHA does not repeal the Nov. 2036 date for their replacement. This cost is of great concern to the flexible packaging industry which has far lower margins than companies in the petroleum refining and chemical synthesis businesses. And thus, FPA submits that these costs are particularly unreasonable when what must be replaced has a remaining service life. Phasing-in the replacement of tall ladders and their safety systems also will save individual companies hundreds of thousands of dollars.

Although FPA does not challenge the conclusions of OSHA’s 2016 rulemaking that installation of the required new safety systems can substantially lower risk and that the personal fall arrest systems are technologically feasible, FPA is fortunate to be able to say that it is not aware that any reportable accidents have occurred in this manufacturing sector with the prior existing safety cage and well safety systems utilized on tall ladders. Our members also are not aware of any injuries associated with the affected ladders for pollution controls and/or roof and or roof-fan repairs. For these reasons, it is less critically necessary to install new equipment by a date certain before tall ladders in this industry need to be replaced.

3. FPA Has Significant Concerns Regarding Safety Challenges with the Use of Personal Fall Arrest Systems, Particularly Harnesses.

On the other hand, injuries *related to use of personal fall arrest systems* -- mainly harnesses—to conduct work on process units (unrelated to the affected tall ladders for which this rulemaking is concerned), have been reported in our industry. According to FPA’s members, such issues generally involve employees proper use and fitting of harnesses (with or without personal protective equipment), which would appear to pose similar issues related to their use for tall ladders – particularly since the safety arrest systems are not tailored to a particular task or employee (i.e., it is “static” safety equipment that is part of the tall ladder, not a harness that is chosen to secure an employee for a particular type of process equipment). A not-uncommon issue related to generalized harness usage seems to involve employees, particularly during emergencies, snapping and unsnapping their harnesses in order to access process equipment and/or accessing other employees. In this regard, FPA believes that Industry Petitioners were correct in emphasizing that during “emergencies,” use of the harnesses by trained personnel can

² See Docket at OSHA–2025–0072–0002)

³ 91 Fed. Reg. 17168

create time lags that can imperil employees and also potentially imperil property.⁴ Thus, we hope that OSHA will continue to assess these incidents while revisiting the agency’s 2016 conclusions that personal fall arrest systems are adding “substantial” employee safety benefits.

Employee training on the use of the new required safety arrest systems also has been reported as being challenging. Currently, it has occurred on a “one-off”-basis (i.e., whenever a new fixed ladder is installed or an existing safety system is replaced), as well as on part of regular update training. Because training essentially requires any and all process *and* maintenance employees who “may” come into contact with the affected new or replacement ladders (i.e., everyone but the office, cafeteria staff, and truck drivers). However, since few of these employees actually gain experience with the use of the new safety restraint features, re-training is necessary in the view of safety coordinators even before new systems are installed in a plant because people just forget how to use them. While this is not a reason *not to continue* implementing personal fall arrest systems, we believe it is a management and cost issue which could smooth out given a longer implementation timeline beyond the present Nov. 18, 2026 deadline as tall ladders near the end of their service lives.

B. The Legal Basis for the Proposed Withdrawal and Amendment of the Mandatory Compliance Deadline is Reasonable and Not Arbitrary and Capricious.

1. ***The 2016 standard was not intended to interfere with the use of viable tall stationary ladders before the end of their lives, because the agency did not have data on that issue.***

In explaining its decision to adopt a 20-year compliance deadline, OSHA stated in the 2016 final rule that the agency “set the extended phase-out period to take into account normal replacement and average useful life of fixed ladders, cages, and wells” 81 Fed. Reg. 82494,497. The agency estimated that, within 20 years, “the large majority of fixed ladders will have been replaced or in need of replacement.” OSHA’s rulemaking also made clear that in selecting a compliance date subsequent to the replacement or service duration of the “vast majority” of fixed ladders, the agency 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 tall ladders” (81 FR 82603). Indeed, OSHA’s assessment of the economic feasibility of the requirement relied on this assumption (81 FR 82611).

⁴ *Supra* at fn. 2, page 4.

2. Even if the 2016 rulemaking had substantial evidence that a reasonable lifetime for a tall ladder was twenty years, or more, OSHA can repeal the Nov. 2036 compliance date based on the agency's reasonable consideration of new facts affecting the implementation of the 2016 rule.

This rulemaking, consistent with the Administrative Procedures Act and existing law provides, public notice and an ample opportunity for affected entities and the public to weigh in on the benefits and costs of the proposed repeal of a compliance deadline for installation of new personal fall arrest systems and replacement of tall ladders. Every administrative agency at some point reconsiders regulatory requirements, and as long as changes to an existing rule are done properly, a reviewing court will not disturb the results of that review. See *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29 (1983) (“*State Farm*”).

3. The standard's findings of substantial reduction of a significant risk or that the technology is available to address the risk are not disturbed by changing the November 2036 date to avoid replacing existing standard ladders before the ends of their useful lives.

The proposed repeal of the mandatory deadline for replacing tall stationary ladders by November 2036, also does not disturb the agency's prior finding that the revision of standard would substantially reduce a significant risk of material harm or that personal fall arrest systems are technically achievable. If finalized, this rulemaking only would acknowledge what OSHA already implied in its 2016 rulemaking, i.e., that it thought that 20 years was a reasonable time to implement the new safety standard given the cost and remaining lives of existing affected tall ladders. In the April 6, 2026 proposed rule, OSHA acknowledges that perhaps that is not the case and requests additional relevant information on its initial assumption. FPA here is confirming that not only do existing tall ladders have significant remaining lives, but installing new personal fall prevention systems is very expensive.

In other words, the proposed amendment of the fundamental requirement of Nov. 2016 would not be fundamentally changed in anyway be the repeal of the final compliance date in subpar. (D) of the instant rule. In this respect, OSHA argues the law does not apply the same legal and evidentiary burden to every facet of the standard, including but not limited to the date by which subset of affected equipment would come into compliance. 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); See 17166, cols.2-3. Grounded firmly in the 2016 rule is OSHA's finding that it was reasonable to assume that the life expectancy of existing tall ladders was twenty years, which we now know was not a reasonable given the projected further use of those tall ladders well beyond 2036.

Comments of the Flexible Packaging Association

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In closing, FPA appreciates having this opportunity to comment on the proposed removal of a final compliance date for installation of tall ladders and personal fall arrest systems. For obvious reasons, the safety of FPA members' employees using this equipment is exceedingly important to our industry.

The Association also urges OSHA to consider further rulemaking to weigh whether these personal fall arrest systems are reasonable to require given the difficulty implementing in this industry and the safety issues that we have experienced with fitting and using harnesses with other process equipment. If you have questions regarding these comments, please contact me.

Respectfully submitted,



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