

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123:1-3-04

Rule Type: Amendment

Rule Title/Tagline: Floors, stairways, railing, overhead protection and guarding of open-sided floors, platforms and runways.

Agency Name: Bureau of Workers' Compensation

Division: Division of Safety and Hygiene

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/29/2019
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4121.12, 4121.121, 4121.13, Const. Art. II, Sec. 35
5. **What statute(s) does the rule implement or amplify?** 4121.47
6. **What are the reasons for proposing the rule?**

Pursuant to R.C. 119.032, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. Due to such review, the Bureau is proposing to amend this rule for the purposes explained below.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule applies to temporary conditions where there is danger of employees or material falling through floor, roof or wall openings or from stairways or runways. The proposed changes will ensure that the definitions in this rule are the same as the OSHA definitions.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The specific requirements of this code are requirements upon an employer for the protection of such employer's employees and no others and apply to all construction industry subject to the Workers' Compensation Act. If an injured worker suffers an injury as a result of an employer's violation of a safety rule, the Industrial Commission can add from 15% to 50% to the injured worker's compensation, which is billed to the employer as a penalty or fine. The expected adverse impact from this regulation varies from case to case, therefore, it is not possible to quantify the exact impact of

any factors. If an injured worker's claim results from an employer's violation of one of these rules, the employer must pay an additional penalty to the injured worker.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

III. Common Sense Initiative (CSI) Questions

15. **Was this rule filed with the Common Sense Initiative Office?** Yes
16. **Does this rule have an adverse impact on business?** No
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** No
 - B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms?** No

Although this rule does not impose any penalty, sanction, nor creates a cause of action for non-compliance, employers are required to comply with the safety provisions of this rule.
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** No