

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H049C]

RIN 1218-AA05

Assigned Protection Factors

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

ACTION: Proposed rule; request for comments and scheduling of informal public hearings.

SUMMARY: OSHA is proposing to revise its existing Respiratory Protection Standard to add definitions and specific requirements for assigned protection factors (APFs) and maximum use concentrations (MUCs). The proposed revisions also would supersede the respirator selection provisions of existing substance-specific standards with these new APFs (except the APFs for the 1,3-Butadiene Standard).

The Agency developed the proposed APFs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies. The proposed APFs would provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants found in general industry, construction, shipyard, longshoring, and marine terminal workplaces. Proper respirator selection using APFs is an important component of an effective respirator protection program. Accordingly, OSHA has made a preliminary conclusion that the proposed APFs are necessary to protect employees who use respirators against atmospheric contaminants.

DATES: *Written comments.* The Agency invites interested parties to submit written comments regarding the proposed rule, including comments to the information-collection determination under the Supplementary Information section of this **Federal Register** notice, by mail, facsimile, or electronically. You must send all comments, whether submitted by mail, facsimile, or electronically through OSHA's Web site, by September 4, 2003.

Informal public hearings. The Agency plans to hold an informal public hearing in Washington, DC in late summer or early fall of 2003. OSHA expects the DC hearing to last from 9:30 a.m. to 5:30 p.m. on the first day, and from 8:30 a.m. to 5:30 p.m. on subsequent days; however, the exact daily schedule is at

the discretion of the presiding administrative law judge. If an additional hearing is held, the Agency will announce the date, time, and location of this hearing later in the subsequent **Federal Register** notice.

Notice of intention to appear to provide testimony at the informal public hearing. Interested parties who intend to present testimony at the informal public hearing in Washington, DC, must notify OSHA of their intention to do so no later than September 4, 2003.

Hearing testimony and documentary evidence. Interested parties who will be requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the hearing, must provide the Agency with copies of their full testimony and all documentary evidence they plan to present by September 4, 2003.

ADDRESSES: *Written comments.* You may submit three copies of written comments to the Docket Office, Docket No. H049C, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone (202) 693-2350. If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office, telephone number (202) 693-1648. You do not have to send OSHA a hard copy of your faxed comments. You may submit comments electronically through OSHA's Home page at <http://ecomments.osha.gov/>. If you would like to submit additional studies or journal articles, you must submit three copies of them to the OSHA Docket Office at the address above. These materials must clearly identify your electronic comments by name, date, subject, and docket number so we can attach them to your comments.

Informal public hearings. The informal public hearing to be held in Washington, DC will be located in the Auditorium on the plaza level of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC.

Notice of intention to appear to provide testimony at the informal public hearing. Notices of intention to appear at the informal public hearing should be submitted in triplicate to the Docket Office, Docket No. H049C, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Notices may also be faxed to the Docket Office at (202) 693-1648 or submitted electronically at <http://ecomments.osha.gov/>. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m.

Hearing testimony and documentary evidence. Interested parties who will be requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the informal public hearing must mail three copies of the testimony and the documentary evidence to the Docket Office, Docket No. H049C, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210. Additional information for submitting testimony and evidence is found under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Mr. John E. Steelnack, Directorate of Standards and Guidance, Room N-3718, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone (202) 693-2289 or fax (202) 693-1678. For hearing information contact Ms. Veneta Chatmon, OSHA Office of Information, Docket No. H-49C, Room N-3649, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210 (telephone (202) 693-1999). For additional copies of this **Federal Register** notice, contact the Office of Publications, Room N-3103, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210 (telephone (202) 693-1888). Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Home page at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:**OMB Review Under the Paperwork Reduction Act**

After a thorough analysis of the proposed provisions, OSHA believes that these provisions would not add to the existing collection-of-information (*i.e.*, paperwork) requirements regarding respirator selection. OSHA determined that its existing Respiratory Protection Standard at 29 CFR 1910.134 has two provisions that involve APFs and also impose paperwork requirements on employers. These provisions require employers to: Include respirator selection in their written respiratory protection program (29 CFR 1910.134(c)(1)(i)); and inform employees regarding proper respirator selection (29 CFR 1910.(k)(ii)). The information on respirator selection addressed by these two provisions must include a brief discussion of the purpose of APFs, and how to use them in selecting a respirator that affords an employee protection from airborne contaminants. The burden imposed by this requirement remains the same