

proposed APF requirements do not impose unfunded mandates on state, local, and tribal governments.

Protecting Children From Environmental Health and Safety Risks

Executive Order 13045 requires that Federal agencies submitting covered regulatory actions to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866 must provide OIRA with (1) an evaluation of the environmental health or safety effects that the planned regulation may have on children, and (2) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. Executive Order 13045 defines "covered regulatory actions" as rules that may (1) be economically significant under Executive Order 12866 (*i.e.*, a rulemaking that has an annual affect on the economy of \$100 million or more, or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities), and (2) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children. In this context, the term "environmental health risks and safety risks" means risks to health or safety that are attributable to products or substances that children are likely to come in contact with or ingest (*e.g.*, through air, food, water, soil, product use).

The proposed provisions are not economically significant under Executive Order 12866 (*see* section VI ("Summary of the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis") of this preamble). In addition, after reviewing the proposed APF provisions, OSHA has determined that these provisions do not impose environmental health or safety risks to children as set forth in Executive Order 13045. The proposed provisions would require employers to use APFs in selecting proper respirators for employee use, with the objective of limiting employee exposures to airborne contaminants. To the best of OSHA's knowledge, no employees under 18 years of age work under conditions that require respirator use. However, if such conditions exist, children who use respirators selected according to these proposed provisions would receive adequate protection from the airborne contaminants. In this regard, the Agency is requesting public comment on whether employees under the age of 18 years use respirators, and, if they do, the

extent to which the respirators provide them with adequate protection. Based on this discussion, OSHA believes that the APF and MUC requirements proposed in this rulemaking do not constitute a covered regulatory action as defined by Executive Order 13045.

Applicability of Existing Consensus Standards

Section 6(b)(8) of the OSH Act requires OSHA to explain "why a rule promulgated by the Secretary differs substantially from an existing national consensus standard," by publishing "a statement of the reasons why the rule as adopted will better effectuate the purposes of the Act than the national consensus standard." [*see* 29 U.S.C. 655(b)(8)]. Accordingly, the Agency compared the proposed APF requirements with the APF provisions of ANSI Z88.2-1992 ("Respiratory Protection"). This consensus standard, published by the American National Standards Institute in 1992, is the only publicly available consensus standard that includes APFs. In most instances, the APFs being proposed by the Agency are identical to ANSI's APFs, however, some differences exist. Where OSHA has proposed an APF that differs from ANSI's, the Summary and Explanation provides the basis for that decision.

Environmental Impact Assessment

The Agency reviewed the proposed provisions according to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council of Environmental Quality (40 CFR part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11). OSHA estimates that this proposed rule would have a direct impact on a relatively small number of respirator users and, in so doing, merely alter the type of respirator they are using. The Agency does not anticipate that this will significantly alter solid waste patterns, water quality, or ambient air quality. As a result of this review, OSHA concludes that the proposed provisions would have no significant environmental impact.

I. General

Table of Contents

The following Table of Contents identifies the major preamble sections of this proposal and the order in which they are presented:

Introductory Material
Notice and Comment
Dates for Hearings
Supplementary Information
OMB Review Under the Paperwork Reduction Act
Federalism

State Plans
Unfunded Mandates
Protecting Children from Environmental Health and Safety Risks
Applicability of Existing Consensus Standards
Environmental Impact Assessment
I. General
Table of contents
Glossary
II. Pertinent Legal Authority
III. Events Leading to the Proposed Standard
A. Regulatory History
B. Need for Assigned Protection Factors
C. Review of the Proposed Standard by the Advisory Committee for Construction Safety and Health (ACCSH)
IV. Methodology for Developing Assigned Protection Factors
A. Dr. Nicas' Proposal and Response from Commenters
B. Analyses of WPF Studies
C. Analyses of SWPF Studies
D. OSHA's Overall Summary Conclusions
E. Summaries of Studies
V. Health Effects
VI. Summary of the Preliminary Economic Analysis and Initial Regulatory Flexibility Screening Analysis
VII. Summary and Explanation of the Proposed Standard
A. Revisions to the Respiratory Protection Standard
B. Superseding the Respirator Selection Provisions of Substance-Specific Standards in Parts 1910, 1915, and 1926
VIII. Issues
IX. Public Participation—Comments and Hearings
X. Proposed Amendments to Standards

Glossary

This glossary specifies the terms represented by acronyms, and provides definitions of other terms, used frequently in this proposal. This glossary does not change the legal requirements as proposed in this notice of proposed rulemaking, nor is it intended to propose new regulatory requirements or definitions. It is presented simply to assist the reader.

A. Acronyms

ACGIH: American Conference of Governmental Industrial Hygienists.
AIHA: American Industrial Hygiene Association.
ANSI: American National Standards Institute.
APF: Assigned Protection Factor (*see* definition in proposed regulatory text).
DOP: Dioctylphthalate (an aerosolized agent used for quantitative fit testing).
DFM: Dust/Fume/Mist filter.
EPF: Effective Protection Factor (*see* definition below under "Protection factor study").
HEPA: High efficiency particulate air [filter] (*see* definition below).
IDLH: Immediately dangerous to life or health (*see* definition below).