

b. Special or unique respirator-selection requirements in the substance-specific standards (e.g., requirements for emergency-escape, HEPA filters, upgrading respirators at the employee's request, eye protection) remain largely intact. Should the Agency standardize these provisions across all of its substance-specific standards, and, if so, what requirements should it standardize.

14. The Agency has developed its Preliminary Economic Analysis (PEA) based on survey data indicating what types of respirators employees are using currently. The Agency does not, however, have data on the exposure levels as a multiple of the PEL that respirator users are currently exposed to. For the purposes of this analysis, the Agency has used its internal Integrated Management and Information System (IMIS) data to estimate the distribution of exposures as a multiple of the PEL. The Agency also assumes that employers are currently using the respirator with the lowest possible costs that can still satisfy existing guidance on APFs, allowing employees to be exposed up to the full limit of a currently assigned APF for that class of respirator. OSHA seeks comment on whether other data sources or methodologies for making this projection exist.

a. Is it common for employers to put employees in respirators at the highest exposure levels permitted by the APF range?

b. Are there particular types of respirators that frequently do not fit this pattern (i.e., are selected for reasons other than having a high APF or due to a medical reason for a particular employee)?

c. How do employers approach the issue of uncertainty in possible exposure levels when integrating APFs into their respirator selection?

d. To what extent will having a single OSHA APF table result in less confusion than the existing multiplicity of APF tables?

e. Do OSHA's cost estimates of using different types of respirators adequately represent all of the costs associated with each type of respirator use?

f. Are there any alternative approaches consistent with the OSH Act that could reduce the burden of this standard on small entities?

IX. Public Participation—Comments and Hearings

OSHA encourages members of the public to participate in this rulemaking by submitting comments on the proposal, and by providing oral testimony and documentary evidence at

the informal public hearing that the Agency will convene after the comment period ends. In this regard, the Agency invites interested parties having knowledge of, or experience with, APFs and MUCs to participate in this process, and welcomes any pertinent data and cost information that will provide it with the best available evidence on which to develop the final regulatory requirements.

This section describes the procedures the public must use to submit their comments to the docket in a timely manner, and to schedule an opportunity to deliver oral testimony and provide documentary evidence at the informal public hearings. Comments, notices of intention to appear, hearing testimony, and documentary evidence will be available for inspection and copying at the OSHA Docket Office. You also should read the sections above titled **DATES** and **ADDRESSES** for additional information on submitting comments, documents, and requests to the Agency for consideration in this rulemaking.

Written Comments. OSHA invites interested parties to submit written data, views, and arguments concerning this proposal. In particular, OSHA would encourage interested parties to comment on the issues raised in section VIII ("Issues") of the preamble. When submitting comments, parties must follow the procedures specified above in the sections titled **DATES** and **ADDRESSES**. The comments must clearly identify the provision of the proposal you are addressing, the position taken with respect to each issue, and the basis for that position. Comments, along with supporting data and references, received by the end of the specified comment period will become part of the proceedings record, and will be available for public inspection and copying at the OSHA Docket Office.

Informal Public Hearings. Pursuant to section 6(b)(3) of the Act, members of the public will have an opportunity at an informal public hearing to provide oral testimony concerning the issues raised in this proposal. The hearings will commence at 9:30 a.m. on the first day. At that time, the presiding administrative law judge (ALJ) will resolve any procedural matters relating to the proceeding. The hearings will reconvene on subsequent days at 8:30 a.m.

The legislative history of section 6 of the OSH Act, as well as OSHA's regulation governing public hearings (29 CFR 1911.15), establish the purpose and procedures of informal public hearings. Although the presiding officer of such hearings is an ALJ, and questioning by interested parties is allowed on crucial

issues, the proceeding is informal and legislative in purpose. Therefore, the hearing provides interested parties with an opportunity to make effective and expeditious oral presentations in the absence of procedural restraints or rigid procedures that could impede or protract the rulemaking process. In addition, the hearing is an informal administrative proceeding, rather than adjudicative one in which the technical rules of evidence would apply, because its primary purpose is to gather and clarify information. The regulations that govern public hearings, and the pre-hearing guidelines issued for this hearing, will ensure participants fairness and due process, and also will facilitate the development of a clear, accurate, and complete record. Accordingly, application of these rules and guidelines will be such that questions of relevance, procedure, and participation generally will favor development of the record.

Conduct of the hearing will conform to the provisions of 29 CFR part 1911, "Rules of Procedure for Promulgating, Modifying, or Revoking Occupational Safety and Health Standards." The regulation at 29 CFR 1911.4 "Additional or Alternative Procedural Requirements," specifies that the Assistant Secretary may, on reasonable notice, issue alternative procedures to expedite proceedings or for other good cause. Although the ALJs who preside over these hearings make no decision or recommendation on the merits of OSHA's proposal, they do have the responsibility and authority to ensure that the hearing progresses at a reasonable pace and in an orderly manner.

To ensure that interested parties receive a full and fair informal hearing as specified by 29 CFR part 1911, the ALJ has the authority and power to: Regulate the course of the proceedings; dispose of procedural requests, objections, and comparable matters; confine the presentations to matters pertinent to the issues raised; use appropriate means to regulate the conduct of the parties who are present at the hearing; question witnesses, and permit others to question witnesses; and limit the time for such questioning. At the close of the hearing, the ALJ will establish a post-hearing comment period for parties who participated in the hearing. During the first part of this period, the participants may submit additional data and information to OSHA, while during the second part of this period, they may submit briefs, arguments, and summations.

Notice of Intention To Appear To Provide Testimony at the Informal