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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1926

[Docket No. OSHA-2025-0019]

RIN: 1218-AD54

1,2-dibromo-3-chloropropane

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule revises some substance-specific respirator requirements to allow different types of respirators to be used under OSHA's 1,2-Dibromo-3-Chloropropane standard and better aligns this standard with OSHA's Respiratory Protection standard.

DATES: Comments and other information, including requests for a hearing, must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Informal public hearing: OSHA will schedule an informal public hearing on the rule if requested during the comment period. If a hearing is requested, the location and date of the hearing, procedures for interested parties to notify the agency of their intention to participate, and procedures for participants to submit their testimony and documentary evidence will be announced in the Federal Register.

ADDRESSES: *Written comments:* You may submit comments and attachments, identified by Docket No. OSHA-2025-0019, electronically at

<https://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA-2025-0019). When uploading multiple attachments to regulations.gov, please number all of your attachments because regulations.gov will not automatically number the attachments. This will be very useful in identifying all attachments. For example, Attachment 1—title of your document, Attachment 2—title of your document, Attachment 3—title of your document. For assistance with commenting and uploading documents, please see the Frequently Asked Questions on <https://www.regulations.gov>.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

Docket: The docket for this rulemaking (Docket No. OSHA-2025-0019) is available at <https://www.regulations.gov>, the Federal eRulemaking Portal. Most exhibits are available at <https://www.regulations.gov>; some exhibits (e.g., copyrighted material) are not available to download from that web page. However, all materials in the dockets are available for inspection at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT:

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Copies of this Federal Register notice: Electronic copies are available at <https://www.regulations.gov>. This Federal Register notice, as well as news releases and other relevant information, also are available at OSHA's web page at <https://www.osha.gov>. A "100-word summary" is also available on <https://www.regulations.gov>.

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I. Executive Summary

This proposed rule is intended to provide greater compliance flexibility and clarify the policies and procedures employers must follow when implementing a respiratory protection program in conjunction with OSHA's 1,2-Dibromo-3-Chloropropane standard (29 CFR 1910.1044). OSHA is proposing to revise some respirator-related provisions where they are unnecessarily prescriptive, which would result in employers having greater flexibility in the respirators they select for exposed workers, while providing equivalent worker protection. This proposal is also consistent with OSHA's intent, when it published the revised Respiratory Protection standard (29 CFR 1910.134), to use it as a foundation for respirator selection in substance-specific standards.

Additionally, OSHA believes that this proposed rule appropriately incorporates advances in technology, which have made some provisions of the 1,2-Dibromo-3-Chloropropane standard outdated, and would allow employers to take advantage of future

technological advances. This proposed standard is intended to account for modern knowledge and technology and to streamline the selection of respirators.

II. Legal Authority and Preliminary Findings

The purpose of the Occupational Safety and Health Act (29 U.S.C. 651 et seq.) (“the Act” or “the OSH Act”) is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651(b)). To achieve this goal, Congress authorized the Secretary of Labor (“the Secretary”) to promulgate standards to protect workers, including the authority “to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce” (29 U.S.C. 651(b)(3); *see also* 29 U.S.C. 654(a)(2) (requiring employers to comply with OSHA standards), 29 U.S.C. 655(a) (authorizing summary adoption of existing consensus and established federal standards within two years of the Act’s enactment), 29 U.S.C. 655(b) (authorizing promulgation, modification or revocation of standards pursuant to notice and comment), and 29 U.S.C. 655(b)(7) (authorizing OSHA to include among a standard’s requirements labeling, monitoring, medical testing, and other information-transmittal provisions)). An occupational safety and health standard is “... a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment” (29 U.S.C. 652(8)). The Secretary may also issue regulations requiring employers to keep records regarding their activities relating to the Act, as well as records of work-related deaths, injuries, and illnesses (29 U.S.C. 657(c)(1)-(2)).

Before OSHA may promulgate a health or safety standard, it must find that a standard is reasonably necessary or appropriate within the meaning of section 652(8) of the OSH Act, which OSHA did here in 1978 when it published the 1,2-Dibromo-3-Chloropropane standard (43 FR 11514). The Supreme Court, in its decision on OSHA’s

Benzene standard, interpreted OSHA's obligation under section 652(8) as requiring it to evaluate "whether significant risks are present and can be eliminated or lessened by a change in practices" (*Indus. Union Dep't, AFL-CIO v. Am. Petroleum Inst.*, 448 U.S. 607, 642 (1980) (plurality opinion)). OSHA originally published this standard as an emergency temporary standard (ETS) and found that exposure to 1,2-Dibromo-3-Chloropropane posed a grave danger, which is a higher threshold than significant risk (42 FR 45536). When, as here, OSHA has previously determined that its standard substantially reduces a significant risk, it is unnecessary for the agency to make additional findings on risk for every provision of that standard (*see, e.g., Pub. Citizen Health Research Grp. v. Tyson*, 796 F.2d 1479, 1502 n.16 (D.C. Cir. 1986) (rejecting the argument that OSHA must "find that each and every aspect of its standard eliminates a significant risk")). 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); *Forging Indus. Ass'n v. Sec'y of Labor*, 773 F.2d 1436, 1447 (4th Cir. 1985); *United Steelworkers of Am., AFL-CIO-CLC v. Marshall*, 647 F.2d 1189, 1237-38 (D.C. Cir. 1980) ("*Lead I*"). Therefore, while OSHA is not making a preliminary finding of significant risk for this proposed rule, the agency has made a preliminary determination that the proposed changes are reasonably related to the purpose of the 1,2-Dibromo-3-Chloropropane standard as a whole.

A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that is reasonably expected to be developed (*see Am. Iron and Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991)). Courts have also interpreted technological feasibility to mean that a typical firm in each affected industry or application group will reasonably be able to implement the requirements of the standard in most operations most

of the time (*see, e.g., Public Citizen v. OSHA*, 557 F.3d 165, 170-71 (3d Cir. 2009) (citing *Lead I* at 1272)).

This proposed rule would not substantially modify existing requirements for respiratory protection in workplaces; nor would it create new requirements. All employers in compliance with the existing standard would also be in compliance with the revised standard. Therefore, OSHA has made a preliminary determination that the proposed rule would be technologically feasible.

In evaluating economic feasibility, OSHA must consider the average cost of compliance in an industry rather than costs for individual employers. In its economic analyses, OSHA “must construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms” (*Am. Iron and Steel Inst.*, 939 F.2d at 980, quoting *Lead I* at 1272). OSHA has made a preliminary finding that this proposal is economically feasible because it is deregulatory and is expected to reduce costs for employers. OSHA’s economic analysis is presented in Section V.

The Administrative Procedures Act directs agencies to include in each rule adopted “a concise general statement of [the rule’s] basis and purpose” (5 U.S.C. § 553(c)); *cf.* 29 U.S.C. § 655(e) (requiring the Secretary to publish a “statement of reasons” for any standard promulgated)). This notice satisfies this concise statement requirement.

III. Events Leading to the Proposed Rule

OSHA adopted a 1,2-Dibromo-3-chloropropane standard in 1978 (43 FR 11514). OSHA also has a general Respiratory Protection standard, 29 CFR 1910.134, which it first promulgated in 1971 (39 FR 9835). OSHA published a revised Respiratory Protection standard on January 8, 1998 (63 FR 1152). The Respiratory Protection

standard contains worksite-specific requirements for program administration, as well as procedures for respirator selection, employee training, fit testing, medical evaluation, and respirator use, among other provisions. OSHA noted that the revised standard was to “serve as a ‘building block’ standard with respect to future standards that may contain respiratory protection requirements” (63 FR 1265). In 2006, OSHA revised the Respiratory Protection standard again to incorporate assigned protection factors (APFs) in the respirator selection process (71 FR 50122-01).

Several OSHA standards regulating exposure to toxic substances and harmful physical agents, including the 1,2-Dibromo-3-Chloropropane standard, require compliance with many provisions of 29 CFR 1910.134. However, when revising the respirator rule, the Agency decided to retain several special respirator selection provisions in the existing substance-specific standards. In this regard, OSHA noted that the respirator selection requirements retained in the substance-specific standards were developed in rulemakings to provide protection against a hazardous characteristic or condition unique to the regulated substance. Consequently, OSHA felt that preserving these provisions in the individual substance-specific standards would maintain the level of respiratory protection afforded to employees.

In this proposal, OSHA is revisiting some of those determinations; the agency now believes that there are additional ways that substance-specific standards can rely on 29 CFR 1910.134 without compromising employee safety. The purpose of revising the respirator-related provisions of OSHA’s 1,2-Dibromo-3-Chloropropane standard is to conform them, to the extent possible, with other substance-specific standards and to the revised 29 CFR 1910.134 in general. The proposed updates will improve the 1,2-Dibromo-3-Chloropropane standard because it will now refer to the APFs in the Respiratory Protection standard, which is based on current technology and practices for

respirator use. This revised standard is intended to take account of new knowledge and technology.

1,2-Dibromo-3-chloropropane is no longer commercially manufactured in the United States and was not reported to be produced for sale by any manufacturing plant worldwide in 2009. Nevertheless, 13 suppliers were identified in the U.S. in 2009. Since 1985, after the U.S. Environmental Protection Agency suspended registrations for uses of fumigant products containing the compound, 1,2-dibromo-3-chloropropane has been used in the United States only for research purposes and as an intermediate in organic synthesis, such as in the synthesis of a fire retardant called tris(2,3-dibromopropyl) phosphate. In 2009, no commercial manufacturers of tris(2,3-dibromopropyl) phosphate were identified, but it was available from six U.S. suppliers (*see* <https://www.ncbi.nlm.nih.gov/books/NBK590804/> for more details). Based on these facts, it is likely that usage of 1,2-Dibromo-3-chloropropane in the U.S. as well as the number of employees exposed to the chemical have declined drastically since the promulgation of the 1,2-Dibromo-3-chloropropane standard in 1978.

OSHA expects that the rule would ultimately reduce the compliance burden on the regulated community, without compromising worker safety. Therefore, OSHA believes this proposed rule is consistent with Executive Order (E.O.) 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative," E.O. 14192, "Unleashing Prosperity Through Deregulation," and the goal of removing regulations that harm the national interest by impeding technological innovation or private enterprise and entrepreneurship.

IV. Summary and Explanation of the Proposed Requirements

OSHA is proposing to revise paragraphs (h) and (n) of its general industry 1,2-dibromo-3-chloropropane standard (29 CFR 1910.1044) to reduce compliance burdens, allow for the use of more up-to-date technology, and improve the comprehensibility of

the requirements for respiratory protection programs. These revisions would improve comprehensibility and simplify compliance for employers by removing requirements in 1910.1044 that are duplicative with the requirements in 1910.134. The revisions would also remove unnecessary restrictions on respirator selection where another equally protective option exists. Finally, these revisions would conform this standard, to the extent possible, to other substance-specific standards and to 29 CFR 1910.134. The Agency preliminarily concludes, therefore, that updating this rule is consistent with the goals of reducing undue burden and facilitating the use of new technologies.

OSHA has preliminarily determined that paragraphs (h)(1)(i) through (iv) of the 1,2-dibromo-3-chloropropane standard unnecessarily duplicate the general provisions covered by 1910.134(a) and is proposing to remove those paragraphs and add a cross reference to 1910.134(a)(2) in paragraph (h)(1).

OSHA is also proposing changes to paragraph (h)(3)(ii)(A) of the 1,2-Dibromo-3-chloropropane standard. That paragraph currently requires employers to provide a combination respirator that includes a supplied-air respirator with a full facepiece operated in a pressure-demand or other positive-pressure or continuous-flow mode as well as an auxiliary self-contained breathing apparatus (SCBA) operated in a pressure-demand or positive-pressure mode. OSHA is proposing to replace that with a requirement to provide a combination respirator with a minimum APF of 1,000 that includes an auxiliary self-contained breathing apparatus (SCBA) operated in a pressure-demand or positive-pressure mode. Making this change would allow employers to choose respirators based on the APF factors from 1910.134 and would provide employers with more options.

Finally, OSHA has preliminarily determined that paragraph (n)(1)(ii)(c), which requires training on “The purpose, proper use, and limitations of respirators,”

unnecessarily duplicates the general training provisions covered by 1910.134(k). OSHA is therefore proposing to remove and reserve this paragraph.

OSHA is also requesting comment on whether to remove 29 CFR 1910.1044 in its entirety. If OSHA did this, it would instead require any employers with exposed employees to comply with the more general standards contained in 29 CFR part 1910, including 1910 Subpart I on Personal Protective Equipment, which contains requirements for respiratory protection, and Subpart Z on Toxic and Hazardous Substances. As discussed previously, it is likely that only small amounts of 1,2-Dibromo-3-chloropropane are used in the U.S. and that the number of exposed workers is small.

OSHA recognizes that adopting these revisions will also result in the revision of the respiratory protection requirements in OSHA's shipyard employment, marine terminals, longshoring, and construction industry standards for 1,2-dibromo-3-chloropropane (*see* 29 CFR 1926.1144, 29 CFR 1917.1, 29 CFR 1918.1, and 29 CFR 1915.1044, which apply the requirements in 1910.1044 to construction, longshoring, marine terminals, and shipyards.). OSHA requests comment regarding whether there are any considerations that are unique to the use of respirators for protection against 1,2-dibromo-3-chloropropane hazards in shipyards, marine terminals, longshoring, or construction that OSHA should consider when finalizing this proposal. OSHA is in the process of appointing members to the Advisory Committee on Construction Safety and Health (ACCSH). The agency intends to present this proposed rule to ACCSH once that process is complete. The agency will put the Committee's recommendations on the OSHA website and in the docket for this proposed rule prior to the close of the comment period to allow the public to provide comments on those recommendations.

OSHA requests comments on the following questions:

1. Are there any concerns that making the changes described in this proposal will decrease worker safety?

2. Are there alternative approaches OSHA should consider to the proposed revisions?
3. Should OSHA remove the 1,2-Dibromo-3-Chloropropane standard? Would following the standards under 29 CFR part 1910 (e.g., 29 CFR part 1910, Subparts I and Z) sufficiently protect workers?

V. Economic Analysis

This proposed rule would remove redundant training requirements and expand compliance options for employers under the 1,2-Dibromo-3-Chloropropane standard, 29 CFR 1910.1044. The changes to the requirements for 1,2-dibromo-3-chloropropane would expand compliance options for employers by allowing them to provide respirators with a helmet or hood rather than mandating full facepiece respirators. Because the proposal would simply provide more options, OSHA has preliminarily concluded that there would be no additional costs imposed by the proposed revisions. Therefore, OSHA has made a preliminary determination that the rule would be economically feasible.

As discussed in Section III. Events Leading to the Proposed Rule, it is likely that only small amounts of 1,2-Dibromo-3-chloropropane are currently used for chemical synthesis and research purposes. 1,2-Dibromo-3-chloropropane is no longer commercially produced in the U.S., according to the National Institutes of Health.¹ Therefore, the regulated community, and number of exposed workers, is likely small. While this proposal would allow employees to switch from a full facepiece respirator to a hooded continuous flow respirator, which would eliminate the need for fit testing and reduce costs, OSHA estimates no cost savings from this proposal due to a lack of information on the extent to which employees are still exposed to 1,2-Dibromo-3-chloropropane. OSHA welcomes data identifying any current uses of 1,2-dibromo-3-

¹ See <https://www.ncbi.nlm.nih.gov/books/NBK590804/> for details.

chloropropane in this country as well as information on the number of exposed employees and respirator usage for exposed employees.

To the extent 1,2-Dibromo-3-chloropropane is used, OSHA seeks comments and data in response to the following questions:

1. How much do employers expect to save based on the increased flexibility in respirator selection?
2. How many employees would employers expect to use helmet or hooded style respirators instead of a full facepiece under the proposed revisions?
3. Are there any other savings for employers that would result from the proposed change?
4. Are there any benefits for worker protection that can be anticipated from this proposed change?
5. Are there any costs for employers that would result from this change that OSHA has not considered?
6. Are there additional categories of cost savings that OSHA has not identified?
7. Is 1,2-Dibromo-3-chloropropane used outside of general industry? If so, for what purpose?

A. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

OSHA reviewed this proposed rule under the provisions of the Regulatory Flexibility Act. This rule would eliminate burdensome regulations. Therefore, OSHA initially concludes that the impacts of the revisions would not have a “significant

economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. OSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

B. Review Under Executive Order 12866

E.O. 12866, “Regulatory Planning and Review” (58 FR 51735 (Oct. 4, 1993)), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this proposed rule would not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposal was not submitted to OIRA for review under E.O. 12866.

VI. Additional Requirements

A. Requirements for States with OSHA-Approved State Plans

Under section 18 of the OSH Act (29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and

enforcement of occupational safety and health standards that are “at least as effective” as the Federal standards in providing safe and healthful employment and places of employment (29 U.S.C. 667). OSHA refers to these OSHA-approved, State-administered occupational safety and health programs as “State Plans.”²

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, State Plans must either amend their standards to be identical to, or “at least as effective as,” the new Federal standard or amendment, or show that an existing State Plan standard covering this issue is “at least as effective” as the new Federal standard or amendment (29 CFR 1953.5(a)). However, when OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plans do not have to amend their standards, although they may opt to do so. OSHA has preliminarily determined this proposed rule does not impose additional or more stringent requirements than the existing standard, and therefore State Plans are not required to amend their standards. OSHA seeks comment on this assessment of its proposal.

B. OMB Review Under the Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) defines “collection of information” to mean “the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format” (44 U.S.C. 3502(3)(A)). Under the PRA, a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and the agency displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be subject to penalty for

² Of the 29 States and U.S. territories with OSHA-approved State Plans, 22 cover public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The remaining six States and one U.S. territory cover only State and local government employees: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and the Virgin Islands.

failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512(a)(1)). The process for OMB approval is found in 5 CFR Part 1320.

This proposed rule would impose no new information collection requirements. Because the revisions are deregulatory and affect only minor changes to the existing information collections in the 1,2-Dibromo-3-Chloropropane standard (OMB Control Number 1218-0101), OMB has waived the requirements of 5 CFR Part 1320 and approved the modified Information Collection Request (ICR) under existing OMB Control Number 1218-0101 (*see* 5 CFR 1320.18(d)).

C. Environmental Impacts/National Environmental Policy Act (NEPA)

OSHA has reviewed this proposed rule according to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), as amended by the Fiscal Responsibility Act of 2023 (Pub. L. No. 118-5, § 321, 137 Stat. 10), and the Department of Labor's NEPA procedures (29 CFR part 11). OSHA has determined that this proposal would have no impact on the quality of the human environment.

D. Other Statutory and Executive Order Considerations

OSHA has considered its obligations under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*) and the Executive Orders on Consultation and Coordination With Indian Tribal Governments (E.O. 13175, 65 FR 67249 (Nov. 6, 2000)), Federalism (E.O. 13132, 64 FR 43255 (Aug. 10, 1999)), and Protection of Children From Environmental Health Risks and Safety Risks (E.O. 13045, 62 FR 19885 (Apr. 23, 1997)). Given that this is a proposed deregulatory action that involves the removal of requirements, that OSHA does not foresee economic impacts of \$100 million or more, and that the action does not constitute a policy that has federalism or tribal implications, OSHA has determined that no further agency action or analysis is required to comply with these statutes and executive orders. Furthermore, OSHA has determined

that this proposal is consistent with the policies and directives outlined in E.O. 14192, “Unleashing Prosperity Through Deregulation” and is an Executive Order 14192 deregulatory action.

List of Subjects in 29 CFR Part 1910

Assigned protection factors, Airborne contaminants, Health, Occupational safety and health, Respirators, Respirator selection

VII. Authority and Signature

This document was prepared under the direction of Amanda Laihow, Acting Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), 5 U.S.C. 553, Secretary of Labor’s Order No. 8-2020 (85 FR 58393), and 29 CFR part 1911.

Dated: June 20, 2025

Amanda Laihow,
Acting Assistant Secretary of Labor for Occupational Safety and Health.

VIII. Regulatory Text

Proposed Amendments

For the reasons set forth in the preamble, OSHA is amending 29 CFR part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart Z – Toxic and Hazardous Substances

1. The authority for 29 CFR 1910 subpart Z is revised to read as follows:

AUTHORITY: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008); 5-2007 (72 FR 31160), 4-

2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

All of subpart Z issued under 29 U.S.C. 655(b), except those substances that have exposure limits listed in Tables Z-1, Z-2, and Z-3 of §1910.1000. The latter were issued under 29 U.S.C. 655(a).

Section 1910.1000, Tables Z-1, Z-2 and Z-3 also issued under 5 U.S.C. 553, but not under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under 40 U.S.C. 3704 and 5 U.S.C. 553.

Section 1910.1002 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR part 1911.

Sections 1910.1018, 1910.1029, and 1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Public Law 106-430, 114 Stat. 1901.

Section 1910.1201 also issued under 49 U.S.C. 1801-1819 and 5 U.S.C. 553.

2. § 1910.1044 is revised as follows:

- a. Revise paragraph (h)(1);
- b. Remove paragraphs (h)(1)(i) through (iv);
- c. Revise paragraph (h)(3)(ii)(A); and
- d. Remove and reserve paragraph (n)(1)(ii)(c).

The revisions and additions read as follows:

(h) * * *

(1) *General.* For employees who are required to use respirators by this section, the employer must provide each employee an appropriate respirator that complies with the requirements of this paragraph. Respirators must be used when the employer determines that they are necessary to protect the health of an employee as required under 29 CFR 1910.134(a)(2).

(2) * * * * *

(3) * * *

(i) * * * * *

(ii) * * *

(A) A combination respirator that has a minimum APF of 1,000 that includes an auxiliary self-contained breathing apparatus (SCBA) operated in a pressure-demand or positive-pressure mode.

* * * * *

(n) * * *

(1) * * *

(i) * * * * *

(ii) * * *

(c) [Reserved]