

ADDRESSES: Comments (preferably in triplicate) must be submitted to U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, D.C. All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days at the latter address above.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Office of Regulations and Rulings, (202-482-7040).

SUPPLEMENTARY INFORMATION:

Background

Customs published a document in the Federal Register on January 21, 1997 (62 FR 3082), inviting the public to comment on proposed amendments to its regulations regarding drawback. Specifically, the document would revise the regulations to implement the extensive and significant changes to the drawback law contained in the Customs modernization portion of the North American Free Trade Agreement Implementation Act; change some administrative procedures involving manufacturing and unused merchandise drawback; and generally simplify and improve the editorial clarity of the regulations.

A trade association comprised of many members has submitted a request to extend the period of time for comments on the proposed rule for an additional 30 days (until April 24, 1997), in order to have ample time to disseminate to its membership the proposed regulations, review them, meet to discuss changes, and then to prepare a uniform association position in this regard.

Customs believes under the circumstances that this request has merit. Accordingly, the period of time for the submission of comments is being extended as requested.

Dated: February 26, 1997.

John A. Durant,

Acting Assistant Commissioner, Office of Regulations and Rulings.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-052]

RIN 1218-AB55

Exit Routes (Means of Egress)

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

ACTION: Informal public hearing; reopening of written comment period.

SUMMARY: This notice schedules an informal public hearing regarding the notice of proposed rulemaking which OSHA issued on September 10, 1996 (61 FR 47712), concerning a proposed revision of the Agency's General Industry standards for Means of Egress (Subpart E of Part 1910). This notice also reopens the comment period for written responses to the proposed rule. **DATES:** Notices of intention to appear at the informal public hearing must be postmarked by April 1, 1997. Hearing participants requesting more than 10 minutes for their presentations, and participants who will submit documentary evidence at the hearing, must submit the full text of their testimony and all documentary evidence to the Docket Office, postmarked no later than April 14, 1997. Written comments on the proposed standard must also be postmarked by April 14, 1997. The hearing will be held in Washington, D.C. and is scheduled to begin on April 29, 1997.

ADDRESSES: Comments, notices of intention to appear at the informal public hearing, testimony, and documentary evidence are to be submitted in quadruplicate to: Docket Office, Docket S-052; Room N2625; U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Washington, DC. 20210 (Telephone: 202-219-7894).

Written comments, notices of intention to appear, testimony, and all other material related to the development of this proposed standard will be available for inspection and copying in the Docket Office, Room N2625, at the above address.

The hearing will be held in C5521, Seminar Room #4, of the U.S. Department of Labor (Frances Perkins Building), 200 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Office of Information and Consumer Affairs, U.S. Department of Labor, Occupational Safety and

Health Administration, Room N3647; 200 Constitution Avenue NW., Washington, DC 20210 (202-219-8148, FAX 202-219-5986).

SUPPLEMENTARY INFORMATION:

I. Background

On September 10, 1996, OSHA published a notice in the Federal Register (61 FR 47712) that proposed to revise Subpart E of Part 1910, Means of Egress. The purpose of the proposed revision was to rewrite the existing requirements of Subpart E in plain English so they would be more understandable to employers, employees, and others who use them. The proposal did not intend to change the regulatory obligations of employers or the safety and health protections provided to employees.

Although OSHA recognized that some portions of Subpart E may warrant updating, the Agency did not propose to update the requirements of Subpart E at this time. Instead, the proposal focused on rewriting the existing requirements in order to be easier to read, understand, and use. Toward this goal, the proposal used performance-oriented requirements where possible, reorganized the text to keep subject matter consistent, removed internal inconsistencies, and eliminated duplicate requirements. Additionally, OSHA proposed to change the name of Subpart E from "Means of Egress" to "Exit Routes."

OSHA also proposed two alternative plain English versions of the revision to Subpart E. The first version was organized in the traditional OSHA regulatory format. The second version used a question and answer format. OSHA invited interested parties to comment on the content and effectiveness of the proposed changes and on the plain English version of Subpart E that they preferred. The Agency established a comment period of 60 days for interested parties to submit written comments and to request a hearing on the proposed revision to Subpart E.

II. Response to Proposed Revision of Subpart E

The Agency received a total of 59 written comments in response to the proposed revision of Subpart E. A vast majority of the commenters supported the concept of rewriting the existing requirements of Subpart E in "plain English," even though many of these commenters suggested various means of improving the revision to Subpart E. A large majority of commenters also preferred the "traditional" format rather

than the "question and answer" format. These commenters believe that the "question and answer" format may be appropriate for an appendix, but that the "traditional" format is clearer, makes it easier to locate answers to specific questions, and is easier to follow and understand.

Two of the commenters, the National Fire Protection Association (Ex. 5: 18) and Hallmark Cards (Ex. 5: 51), requested a hearing in order to allow for a dialogue among life safety professionals; to have greater public involvement in the rulemaking process; and, to facilitate a full discussion of certain important issues.

Accordingly, OSHA has decided to schedule an informal public hearing in order to facilitate a full discussion of the proposed revision, and to address certain important issues resulting from the comments.

OSHA is scheduling a hearing only in Washington, DC. The hearing will commence on Tuesday, April 29, 1997. The Agency is also reopening the rulemaking record for Subpart E until April 1, 1997, to receive additional written comments on the proposed revision.

III. Hearing Issues

1. Most of the commenters suggested that OSHA either adopt, in total, the latest edition of the National Fire Protection Association (NFPA) Life Safety Code (NFPA-101); reference NFPA-101 for specific ways of meeting the performance requirements of the proposed standard; or, state in the regulatory text of the standard, or in the appendix to the standard, that compliance with NFPA-101 meets the requirements of the OSHA Subpart E standard. Should OSHA utilize one of these approaches? If so, how should the Agency implement the approach, especially with respect to periodic future revisions of NFPA-101? For example, if OSHA adopted a specific edition of NFPA-101, such as the 1994 edition, then the Subpart E provisions would not keep pace with future editions of NFPA-101. On the other hand, OSHA cannot actually adopt NFPA-101 as an OSHA standard without specifying a particular edition because of delegation restraints. OSHA is required to conduct rulemaking to update its standards, and this requirement would apply to any future changes to NFPA-101 if it were to be adopted as an OSHA standard.

2. One commenter strongly asserted that OSHA should base its standard on the model building codes, such as the Building Officials and Code Administrators International (BOCA)

Code or the International Conference of Building Officials (ICBO) Code, rather than the NFPA Life Safety Code.

Many of the same issues apply here as those discussed above with regard to adopting NFPA-101. OSHA would like to receive information and testimony regarding the role of model building codes in the revision to Subpart E, including how, and if, the Agency should utilize these codes in the final rule.

3. Several commenters expressed concern that the performance-oriented nature of the proposed requirements may result in compliance problems. OSHA is interested in receiving comments as to whether some of the proposed requirements are so performance-oriented that they would not be easily enforced. Also, could some of the proposed provisions be interpreted in ways that would be inconsistent with previous interpretations relied on by OSHA or other authorities?

4. There were differing views regarding OSHA's proposed provisions dealing with exit capacity and the number of exits considered to be adequate for a workplace building. Some commenters supported the Agency's performance-oriented approach because they believe that OSHA standards should contain only general criteria for exit routes and that the more specific criteria pertaining to the number of exits and the capacity of exits are more appropriately enforced through local building and fire codes.

Other commenters opposed OSHA's approach because they believe that some of the proposed provisions are too general. These commenters suggested that OSHA reinstate more definitive criteria with respect to the number of exits and exit capacity for different types of workplaces.

OSHA requests information, comments, and testimony concerning the most appropriate and effective means of addressing exit capacity and the number of exits that need to be available in the broad array of workplaces covered by the OSHA standard, whether the workplace is a tower, single story building, or multistory building.

5. Several commenters disagreed with OSHA's proposed requirements for exit signs because the proposed version does not specify minimum physical characteristics for exit signs. These commenters contend that the requirements are too general and would create compliance problems for employers. Should OSHA retain specific criteria for exit signs? If so, what criteria should OSHA use?

6. Similarly, some commenters believe that the revised requirements for exit illumination are also too general and would result in compliance problems for employers. Should OSHA include specific criteria for the illumination of exits and exit signs?

7. Although OSHA has attempted to rewrite Subpart E in order to clarify and simplify requirements, are there provisions or terms that are still too technical or difficult to understand? If so, please identify the provision or term and suggest a recommended action.

8. OSHA did not intend the proposed revision of Subpart E to impose any compliance obligations on employers beyond those imposed by existing Subpart E. Did OSHA achieve that goal, or would employers following the proposed revision be required to change their current practices in any way? If so, which proposed requirements would impose new obligations and how would they do so?

9. Do any of the proposed requirements provide greater safety and health protections for employees? If yes, which requirements do so and how would they provide additional protection to employees?

10. Do any of the proposed requirements present technological feasibility problems for affected employers? If yes, which requirements do so and what problems do they present?

OSHA invites comments and testimony on these issues and any other issues pertaining to the proposed revision of Subpart E.

Public Participation

Interested persons are requested to submit written data, views, and arguments concerning the proposal of September 10, 1996, and the additional issues raised in this document. These comments must be postmarked by April 14, 1997, and submitted in quadruplicate to the Docket Office, Docket No. S-052 Room N2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC. 20210.

All written comments received within the specified comment period will be made a part of the record and will be available for public inspection and copying at the above Docket Office address.

Notice of Intention To Appear at the Informal Hearing

Pursuant to section 6(b)(3) of the Occupational Safety and Health Act, an opportunity to submit oral testimony concerning the issues raised by the

proposed standard will be provided at an informal public hearing to be held in Washington, DC. on April 29, 1997, and extending through May 1, 1997, depending on the number of persons intending to participate in the hearing.

The hearing will commence at 9:30 a.m. on April 29, 1997, in C5521, Seminar Room #4, of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC. 20210.

All persons desiring to participate in the hearing must file in quadruplicate a notice of intention to appear, postmarked on or before April 1, 1997. The notice of intention to appear, which will be available for inspection and copying at the OSHA Docket Office (Room N2625), telephone (202) 219-7894, must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The issues that will be addressed;
5. A brief statement of the position that will be taken with respect to each issue; and,
6. Whether the party intends to submit documentary evidence and, if so, a brief summary of it.

The notice of intention to appear shall be mailed to: Docket Office, Docket S-052, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC. 20210; telephone (202) 219-7894.

A notice of intention to appear also may be transmitted by facsimile to (202) 219-5046 (Attention: Docket S-052), by the same date, provided the original and 3 copies are sent to the same address and postmarked no more than 3 days later.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate, the complete text of the testimony, including any documentary evidence to be presented at the hearing. One copy shall not be stapled or bound and be suitable for copying. These materials must be provided to the Docket Office at the address above and be postmarked no later than April 14, 1997.

Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances when the information contained in the submission does not justify the amount

of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the informal public hearing.

Any party who has not substantially complied with this requirement may be limited to a 10 minute presentation, and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify for no more than 10 minutes as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notice of intention to appear, testimony, and evidence will be available for copying at the Docket Office at the address above.

Conduct and Nature of the Hearing

The hearing will commence at 9:30 a.m. on April 29, 1997. At that time, any procedural matters pertaining to the proceeding will be resolved.

The nature of an informal rulemaking hearing is established in the legislative history of section 6 of the Occupational Safety and Health Act and is reflected by OSHA's rules of procedure for hearings (29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge, and limited questioning by persons who have filed notices of intention to appear is allowed on crucial issues, the proceeding is informal and legislative in type. The Agency's intent, in essence, is to provide interested persons with an opportunity to make effective oral presentations that can proceed expeditiously in the absence of procedural restraints that impede or protract the rulemaking process.

Additionally, since the hearing is primarily for information gathering and clarification, it is an informal administrative proceeding rather than one of an adjudicative nature.

The technical rules of evidence, for example, do not apply. The regulations that govern hearings and the pre-hearing guidelines to be issued for this hearing will ensure fairness and due process and also facilitate the development of a clear, accurate, and complete record. Those rules and guidelines will be interpreted in a manner that furthers that development. Thus, questions of relevance, procedure, and participation generally will be decided so as to favor development of the record.

The hearing will be conducted in accordance with 29 CFR Part 1911. It should be noted that § 1911.4 specifies that the Assistant Secretary may, upon reasonable notice, issue alternative procedures to expedite proceedings or for other good cause.

The hearing will be presided over by an Administrative Law Judge who makes no decision or recommendation on the merits of OSHA's proposal. The responsibility of the Administrative Law Judge is to ensure that the hearing proceeds at a reasonable pace and in an orderly manner. The Administrative Law Judge, therefore, will have all of the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR 1911, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections, and comparable matters;
3. To confine the presentations to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. At the Judge's discretion, to question and permit the questioning of any witness and to limit the time for questioning; and,
6. At the Judge's discretion, to keep the record open for a reasonable, stated time (known as the post-hearing comment period) to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

OSHA recognizes that there may be interested persons who, through their knowledge of safety or their experience in the subject matter of this proceeding, would wish to endorse or support certain provisions in the proposed standard. OSHA welcomes such supportive comments in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

Signed at Washington, DC. this 26th day of February 1997.

Gregory R. Watchman,

Acting Assistant Secretary of Labor.

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Mine Safety and Health Administration

30 CFR Parts 56, 57, 62, 70, and 71

RIN 1219-AA53

Health Standards for Occupational Noise Exposure

AGENCY: Mine Safety and Health Administration, (MSHA) Labor.

ACTION: Proposed rule; change of dates for hearings.

SUMMARY: Due to a scheduling conflict, MSHA is changing the dates of two of the public hearings announced in the