

INTEGRATED
WASTE SERVICES
ASSOCIATION

54-172

March 28, 1995

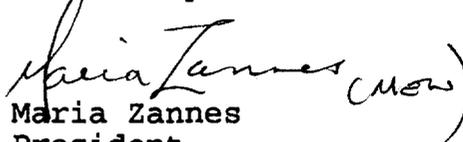
The Docket Office, Docket H-049
U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Ave., N.W. Room N2625
Washington, D.C. 20210

Dear Sir or Madam:

Enclosed please find the comments of the Integrated Waste Services Association ("IWSA") on the proposed rulemaking "Respiratory Protection" published at 59 Fed. Reg. 58884 (November 15, 1994). As requested in the proposal, IWSA is providing a hard copy original and a copy in WordPerfect 5.1 on a diskette.

If you have any questions, please do not hesitate to call me at 202-467-6240.

Your truly,


Maria Zannes
President

Enclosures

OSHA
DOCKET OFFICER
DATE MAR 28 1995
TIME _____

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**INTEGRATED WASTE SERVICE ASSOCIATION
Comments on the
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
PROPOSED RULE ON
RESPIRATORY PROTECTION**

The Integrated Waste Service Association ("IWSA") is pleased to submit the following written comments on the Occupational Safety and Health Administration's ("OSHA's") Proposed Rule on Respiratory Protection, 59 Fed. Reg. 58884 (November 15, 1994). IWSA was formed in 1991 to promote integrated solutions to municipal solid waste problems. Within this capacity, the Association strives to encourage the use of waste-to-energy technology as a key component of community programs. IWSA members include American Ref-Fuel Company, Foster Wheeler Power Systems Company, Montenay Power Corporation, Ogden Martin Systems, Inc., Westinghouse Electric Corporation, and Wheelabrator Environmental Systems Inc. Together, the members represent 58 waste-to-energy facilities nationwide, processing approximately 77,000 tons of refuse each day while generating enough energy to meet the electricity needs of nearly a million homes. IWSA members contribute to the municipal solid waste management needs of more than 30 million residents in 19 states across the country.

IWSA welcomes OSHA's updating of current regulations to address new developments in methodology, technology, and approach. In general, IWSA believes that the proposed regulation represents an efficient and cost-effective means of ensuring worker



safety. IWSA does have a few specific concerns and recommendations, which are outlined below. IWSA also urges OSHA to take this opportunity to revisit certain portions of substance-specific standards to conform them with this rulemaking.

Medical Evaluation (Proposed Subsection (e))

Appropriate medical screening is an important element that must be included in rules governing respirator protection. As OSHA recognizes, however, standards that require unnecessary procedures will cause excessive increases in the cost of worker protection. IWSA believes that regulations for medical evaluation should be designed to cost-effectively identify workers who potentially have conditions that will limit respirator use, and further evaluate such workers as required to confirm the existence and nature of the condition.

For this reason, IWSA opposes any regulatory scheme, such as Alternative 2, that requires medical examinations as a first-level screening. Although Alternative 1 allows physicians discretion in determining the necessary scope of the evaluation, IWSA is concerned that, in the absence of guidance from OSHA, physicians will feel compelled to adopt the most conservative approach and conduct a complete examination. This is particularly true where, as with many of our members, an employer must rely upon outside medical facilities to perform the services. Such facilities will often be more concerned about potential liability than about cost-effectiveness. The existence of an Appendix outlining the elements of an examination will increase the pressure on physicians to perform complete examinations even when unnecessary. Even if the Appendix is non-mandatory, physicians are likely to view the procedures described as establishing a minimum standard of care.

For these reasons, IWSA supports Alternative 3. As the medical profession is increasingly recognizing, trained health professionals are capable of conducting initial screening evaluations and certain testing,^{1/} and can identify those cases in which the expertise of a physician is necessary. While IWSA does not suggest any specific content for a medical questionnaire, it believes that questionnaires such as the ANSI Z88.6 questionnaire or those suggested by Organization Resource Counselors can effectively and efficiently identify those workers for whom specific lung function, cardiovascular, or other tests are appropriate.

Although the preamble discusses the frequency of review of medical status only in the context of Alternative 2, the issue is relevant to all alternatives. OSHA has presented no significant reason for rejecting the conclusion of ANSI and the National Institute of Occupational Safety and Health ("NIOSH") that a sliding scale of review dates, based on employee age, provides adequate protection when coupled with review if an employee encounters difficulty breathing. In the absence of a compelling reason to adopt the more costly annual requirement, OSHA should adopt the sliding scale.

Finally, to the extent that OSHA does include a Medical Examination Appendix, such an Appendix should not suggest hearing assessments or exercise stress tests (for SCBA or rebreather respirators) in the absence of specific indications dictating such tests. Non-emergency respirator use does not give rise to hearing-related risks that are separate and distinct from general work-related issues, and this rulemaking is not the appropriate forum for addressing such risks.

^{1/} Even if OSHA decides to proceed with Alternative 2, IWSA endorses the position, adopted in the proposed language, that physicians be permitted to delegate tasks to trained personnel.

IWSA agrees with the comments received on OSHA's draft proposal that the useful information obtained from stress tests about a worker's ability to use respirator equipment does not justify the cost of stress tests. If cardiovascular limitations exist, they are likely to become apparent during training for rescue work and can be investigated at that time.

Fit Testing (Proposed Subsection (f))

IWSA has three comments about OSHA's fit testing proposals: (1) OSHA should include a quantitative fit testing ("QNFT") protocol using the TSI Portacount fit testing method in Appendix A; (2) a single QNFT test, rather than three, should suffice to satisfy quantitative testing requirements; and (3) OSHA should revise substance-specific standards to conform to the proposed requirement for annual fit testing.

TSI Portacount

In the preamble to the proposed rule, OSHA stated that it would evaluate allowing use of the TSI Portacount fit testing method in substance-specific standards as an alternative to the QNFT protocol set forth in the proposal. OSHA currently considers use of the TSI Portacount fit testing method a de minimis violation of substance-specific standards. IWSA urges OSHA to adopt the TSI Portacount fit testing method in both substance-specific standards and Appendix A to the Respiratory Protection Rule.

The TSI Portacount fit testing method is in widespread use in both industry and government. OSHA has already given the method tacit approval through its compliance interpretation. Inclusion of a protocol for the TSI fit testing method would merely provide official recognition of generally accepted practice.

Multiple QNFT Tests

Because the exact same fit is not achieved every time a respirator is worn, OSHA proposes requiring three separate QNFT fit tests. The QNFT tests require a conservative safety margin, however, that is more than adequate to compensate for minor variations of fit on the same individual. The regulations would require that the measured concentration inside the respirator be less than one-tenth the concentration assigned by NIOSH as providing the minimum fit factor for that class of respirators. Adding to this a requirement of three tests is excessive.

Annual Testing

OSHA proposes to require that employers repeat fit testing when there is a change in respirator make or size, or annually otherwise. The proposal is consistent with recent substance-specific standards such as cadmium (1992)^{2/}, benzene (1987)^{3/}, formaldehyde (1992)^{4/}, and methylenedianiline (1992)^{5/}, in which OSHA has required annual fit testing. Such older standards as asbestos (1986)^{6/}, inorganic arsenic (1978)^{7/}, lead (1978)^{8/}, and acrylonitrile (1978)^{9/}, however, require semiannual testing. The more recent standards and

^{2/} 29 C.F.R. § 1910.1027.

^{3/} 29 C.F.R. § 1910.1028.

^{4/} 29 C.F.R. § 1910.1048.

^{5/} 29 C.F.R. § 1910.1050.

^{6/} 29 C.F.R. § 1910.1001.

^{7/} 29 C.F.R. § 1910.1018.

^{8/} 29 C.F.R. § 1910.1025.

^{9/} 29 C.F.R. § 1910.1045.

the current proposal demonstrate that annual fit testing provides sufficient worker protection. The older standards should be revised to be consistent with the recent standards.

Maintenance and Care (Proposed Subsection (h))

IWSA finds the required cleaning interval in the proposal somewhat ambiguous. It is unclear whether "after each day's use" and "after each use" mean immediately after use or anytime prior to the next use. There would appear to be no good reason, particularly when no other workers are using the equipment, for not allowing an employee to clean equipment any time prior to the next use, as long as the interval is not so long as to allow contamination to contribute to material deterioration. Indeed, reasonable delays in cleaning are likely the result when workers simply turn equipment into a centralized cleaning operation. Such flexibility will allow employees to more efficiently schedule and handle job commitment. IWSA therefore recommends that cleaning be required after each day's use and prior to the next day's use or the end of the next working day, whichever comes first.^{10/}

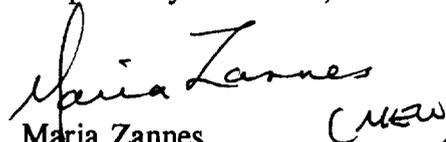
IWSA supports OSHA's proposal to use "performance standards" to describe storage requirements. The widely varying procedures, equipment configurations and physical layouts of the industries covered by this regulation would appear to rule out setting forth detailed storage conditions.

^{10/} Because of issues of employee responsibility, OSHA should probably require shared respirators to be cleaned before the end of the worker's shift or before the next use, whichever comes first, unless the employer operates a central cleaning system, in which case it must be cleaned before the next use or the end of the next working day, whichever comes first.

Training (Proposed Subsection (k))

Employee training is an important part of a respiratory protection program and should be mandated. IWSA questions the value, however, of extensive annual retraining of employees with five or more years of experience (except in the case of workers who must respond to emergencies on a non-routine basis). OSHA should allow employers the flexibility to design a program for experienced workers that simply assures their continued knowledge of, and compliance with, approved procedures, rather than requiring repeated instruction.

Respectfully submitted,


Maria Zannes
President

March 28, 1995