



MOTOROLA

54-187

April 4, 1995

The Docket Office
Docket H-049
U.S. Department of Labor
Occupational Safety and Health Administration
Room N-2625
200 Constitution Ave, N.W.
Washington, D.C. 20210

OSHA
DOCKET OFFICER
DATE APR 6 1995
TIME _____

Dear Sir or Madam:

Motorola supports the efforts of the Occupational Safety and Health Administration to revise and update its regulations on respiratory protection. We are hereby submitting specific comments on the Notice of Proposed Rulemaking published at 59 Fed. Reg. 58884 on November 15, 1994. In general terms, it is our position that OSHA should adopt regulations which are performance rather than specification oriented. We also urge that OSHA provide flexibility in its regulations in order that safety programs may be able to respond to changes in technology without the need for lengthy rulemaking proceedings in the future.

Motorola is one of the world's leading manufacturers of communications and electronic components including semiconductors. Motorola operates 33 manufacturing plants in the United States and employs approximately 132,000 people worldwide. Motorola appreciates the opportunity to file these comments concerning the Respiratory Protection proposal.

Motorola's comments to the proposed rulemaking are set forth below.

Scope and Application

We are requesting greater clarity from OSHA concerning §1910.134(a)(2). If respirators are not necessary to protect the health of the employees but, the employees request and use respiratory protection on a voluntary basis, does this standard apply? We urge OSHA to exclude voluntary use of single-use disposable respirators from the scope of this regulation.

We strongly support OSHA on the concept of voluntary usage of respiratory protection where it is not required to control actual exposures. The use of respiratory protection by employees for many maintenance activities where respiratory protection is not required but where the employees request it for their peace of mind should be considered low risk and not subject to this standard. In addition, the employee who wishes to use a dust mask during

certain job functions for comfort should not be denied use of the dust mask simply because they are not in a respiratory protection program.

Finally, Motorola recommends that OSHA modify its proposed 5-hour threshold for respirator use before a medical evaluation must be obtained and instead require hazard assessments to determine if and when medical evaluations are needed. The employer should have the flexibility to use professional judgment to make a decision, after conducting a hazard assessment, on which requirements of the program should be implemented for voluntary use of single-use disposable respirators, which are not required to control workplace exposures based on the specific situation and the risk to the employee.

Definitions

Motorola recommends that the definition of "hazardous exposure level" be modified to remove the requirement that the employer must determine the "hazardous exposure level" based on available scientific information. We believe that some information which is based on "scientific" data can sometimes be arbitrary, and it can be too difficult for the employer to distinguish between legitimate and arbitrary scientific data.

We urge OSHA to define what is meant by "available scientific information." We believe that the use of this format to determine and regulate hazardous exposure levels circumvents OSHA's responsibility to promulgate hazardous chemical exposure regulations and will eliminate industry's opportunity to comment on proposed exposure levels. This requirement also does not take into account whether scientific peer review has occurred, the need for cost benefit analysis, or the potential reliance upon poor scientific procedures or protocols.

Motorola recommends that the definition of "hazardous exposure level" be modified to remove the requirement that the exposure level be based on available scientific information, including MSDSs, and instead be based on the manufacturer's recommended exposure level.

Motorola recommends that the definition of "respirator" be modified to remove the word "intended" and replaced with the word "designed", due to the fact that the word "intended" could encompass anything from a bandanna to a self-contained breathing apparatus.

Finally, Motorola recommends that the definition of "oxygen deficient atmosphere" be modified to clarify that oxygen deficient atmospheres be measured at standard temperature and pressure.

Respiratory Protection Program

Paragraph (c)(1) of this section requires that employers establish and implement a written respiratory protection program. As stated in our introductory paragraph, it is our position that OSHA should adopt regulations which are based on performance rather than specification oriented. Thus, Motorola is recommending that Paragraph (c)(1) be modified to remove the requirement for establishing and implementing a written respiratory protection program and simply require that employers ensure that the respirators are properly selected, fitted, used, and maintained as necessary to protect the health of employees when respiratory protection is required.

The proposed standard requires employers to designate a person, qualified by training and/or experience in the proper selection, use, and maintenance of respirators, to be responsible for implementing the respirator protection program, and for conducting the periodic evaluations of its effectiveness. The proposal also requires that the employer designate a qualified person to be responsible for the management and administration of the respiratory protection program.

As stated at the outset, we urge OSHA to adopt a performance-oriented respirator protection standard. To this end, we believe OSHA should allow each employer to determine how best to oversee and implement a respiratory protection program designed to meet the unique needs of each employer's operations. The employer is best-suited to identify and assign responsibilities based upon circumstances presented at its own workplace. Training requirements for those individuals designated by the employer to administer the program should be commensurate with the type of respirator program needed at the workplace.

The requirement of having a single person responsible for the respirator program is contrary to established management procedures, particularly where management is decentralized. We agree with the comments of the Dow Company and the ORC, which were published in the Notice of Proposed Rulemaking for Respiratory Protection, 59 Fed. Reg. 58884 (November 15, 1994), stating that OSHA should allow flexibility within the standard so that a committee or multiple employees can be responsible for managing the respiratory program. Nowhere has it been demonstrated that the only way to manage these programs is through designating a single responsible individual. We therefore urge OSHA to allow the employer to tailor a system to meet the needs of its particular workplace.

Selection of Respirators

Paragraph (d)(2) of the proposal states "where elastomeric facepieces are to be used, the employer shall provide a selection of respirators from an assortment of at least three sizes for each type of facepiece from at least two manufacturers."

In the past, Motorola has supplied a choice of respirators from more than one manufacturer; however, we have been able to achieve an acceptable fit from one manufacturer's line of respirators; using the different sizes and styles available. While we believe that obtaining a good fit is essential, we also believe a good fit test can be accomplished using one manufacturer's line of respirators. Most manufacturer's today offer a variety of respirator styles and sizes which use the same filters/parts. A requirement to supply two manufacturer's respirators would be additional inventory and would be an unnecessary burden. Also, the possibility of employees mixing cartridges or spare parts from different manufacturers can increase with the number of types and styles available, thus jeopardizing the performance of their respirator.

Finally, Motorola believes that respirators used to control regulated workplace exposures should be NIOSH-approved and believe that NIOSH should assign protection factors to respirators it approves.

Medical Evaluations

In keeping with the practice of occupational health nursing, which is directed toward primary and secondary prevention and health maintenance, and with the professional NIOSH training received through pulmonary function certification, we believe that a nurse is qualified to determine through use of well defined criteria, whether to certify the user or refer the user to a physician for further evaluation and determination of medical conditions. The licensed medical professional, such as a registered nurse or physician assistant, under the guidance of medically developed and approved criteria, has the clinical expertise and knowledge of the work environment and can best evaluate the physical requirements placed on the user. We also recommend that the licensed medical professional have NIOSH pulmonary function training.

Motorola recommends that OSHA's third alternative be accepted with the exclusion of the statement "a physician's written opinion on respirator use should then be prepared." We support recertification based on a hazard assessment which would take into consideration such things as the age of the individual, health criteria, job function, respirator type, and frequency of use.

Finally, Motorola believes that all information should be retained in non-mandatory Appendix C as a reference. The responsible health provider and the

employer's health, industrial hygiene and safety team, should determine the critical criteria for appropriate medical evaluations using the information in Appendix C as a reference tool.

Fit Testing Procedures

OSHA is proposing that tight fitting atmosphere-supplying respirators utilizing quarter facepiece, half mask, and full facepiece masks be fit tested either by a qualitative or quantitative fit test. The proposal specifies that only the mask needs to be tested, not the entire respirator unit. Motorola agrees with this approach of fit testing with a representative face piece and not the entire respirator, when fit testing an atmosphere-supplying respirator.

We also support OSHA's proposal to allow the use of equivalent or more reliable qualitative or quantitative fit testing other than the methods specified in Appendix A in the absence of performance oriented criteria for determining the reliability of fit tests. Additionally, we support OSHA's proposal which would provide more flexibility in lower risk situations, such as allowing respirators with only a qualitative fit test to be used when the respirators have higher protection factors used in atmospheres less than ten times the permissible exposure limit.

Motorola strongly believes that OSHA should require employee fit testing at the time the employee first begins to wear an exposure-related respirator in the workplace and thereafter once every two years unless the employee requests additional fit tests due to individual concerns over the quality of his or her own fit. This recommendation is based upon Motorola's experience with other respiratory protection program elements, such as training on proper maintenance and use of respirators, both of which substantially contribute to assuring a proper fit. Motorola's experience indicates that it is very rare that an employee will change size over the course of a year. Requiring fit testing annually is a lengthy and burdensome process and should not be required since training on use and maintenance will be part of the employer's respiratory protection program. Additionally, we recommend that positive-pressure respirators be fit tested only at the time of initial use. Motorola also believes that paragraph (f)(1) of the proposed standard should be clarified to require fit testing only in instances where respirator use is required to protect the employee from work-related exposures.

Finally, Motorola believes that it is impractical to expect employers to keep track of employee's skin conditions, body weight, or the presence of false teeth. Instead, the employees should continue to be required to be trained on these issues in their fit testing training, as in the present standard. The proposed paragraph (f)(7) should be deleted or rewritten to require that refitting should only be required, outside of the two year requirement recommended above, when an employee reports a problem with the fit.

Appendix A

Motorola believes that recordkeeping, although it imposes an extra burden on employers, is necessary to keep track of employee fit test results. Motorola believes that OSHA should not impose specific recordkeeping criteria, but instead allow employers to determine how best to document and maintain fit testing results.

Motorola does not believe that OSHA's proposed fit testing requirements have to constitute a carefully controlled measurement procedure using test instrumentation with an accuracy that exceeds that found in the standard quantitative fit testing protocols. Any new and potentially easier fit testing procedure should be acceptable as long as it is as accurate as existing standard quantitative fit testing protocols.

Motorola supports the standardization of qualitative fit testing protocols consistent with those identified in OSHA's Lead Standard, 29 C.F.R. 1910.1025, Appendix D.

Finally, Motorola believes that the seven (7) fit testing procedures should not be required to be performed for a minimum of 1 minute. We are not aware of any scientific testing that demonstrates that testing for one minute is significantly better than testing for thirty (30) seconds or any other shorter period of time. We believe that adequate assurance of respirator efficacy would be achieved by simply performing the seven (7) exercises with no time restrictions.

Use of Respirators

Motorola recommends that OSHA reference the Confined Space and HAZWOPER standards instead of addressing retrieval requirements in the respiratory standard, as currently proposed in paragraph (g)(2). Motorola does not believe that the respiratory protection standard should address retrieval systems or stand-by personnel requirements as they are adequately regulated under 29 C.F.R. 1910.146 and 29 C.F.R. 1910.120.

Maintenance and Care of Respirators

Motorola agrees that good maintenance and inspection programs are essential for proper respirator performance. Motorola supports a requirement that personal respirators be cleaned daily. Further, Motorola agrees that respirators that are shared (including emergency use) must be cleaned after each use. Again, we favor a performance approach. Consistent with this approach, Motorola strongly believes that no additional requirements should be added that specify who cleans respirators or how they should be stored.

Paragraph (h)(4)(i) calls for respirator repair work to be performed by trained personnel. However, it does not detail the type and length of training necessary for such an individual. Motorola submits that specialized training for most respirator repair work is not necessary. The required respirator training should provide sufficient expertise for respirator users to perform respirator repair work or to recognize when repair is beyond their ability.

Training

The proposed standard expands current training requirements and provides much better "objectives" for the training. It also requires the training to be delivered prior to requiring an employee to use a respirator. Motorola believes that annual refresher training should not be a requirement, rather the frequency of the refresher training should be determined by the employer, based upon the employer's program requirements and the result of its hazard assessments.

Respiratory Program Evaluation

Motorola believes that the requirement to periodically consult employees wearing respirators to assess wearer acceptance and attempt to correct any problems is redundant with proposed paragraph (e)(3) and should be deleted. If the respirator user's medical status must be reviewed annually, then it is redundant to include this requirement in the assessment of the respirator user. In addition, typically the program coordinator or person who will perform the assessment will not be a physician and will not be qualified to identify the occurrence of an occupational illness.

Recordkeeping and Access to Records

The final paragraph of the proposed standard deals with recordkeeping related to the respiratory protection program. The employer would be required to record, maintain and provide access to any records of medical evaluations performed under paragraph (e). These records consist of the employee's name, a description of the employee's duties, the physician's written opinion and recommendations on the employee's ability to use a respirator, any results of medical examinations or tests performed, and a copy of the information provided to the physician.

Motorola believes that OSHA should not impose specific recordkeeping criteria under the standard. Employers may, and should be allowed to devise a variety of methods to comply with the recordkeeping requirements. Again, Motorola supports a performance oriented standard and we recommend that OSHA only require recordkeeping adequate to demonstrate compliance.

Substance Specific Standards

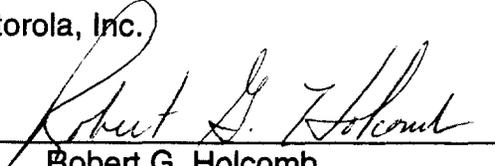
OSHA is proposing to revise all references to Sec. 1910.134 in the existing substance specific standards to conform to the proposed revised standard. Motorola believes this is an excellent approach as it will provide greater consistency and avoid misunderstanding when dealing with these other programs. If a facility is required to comply with one or more of these standards, it can become confusing as to what the correct respirator requirement might be. Motorola would like to see the medical exemption included for low use and low risk situations in these substance specific standards.

Motorola appreciates the opportunity to file these comments regarding this Notice of Proposed Rulemaking. In the event you have any questions, please contact the undersigned, Bob Holcomb at 708/538-3922.

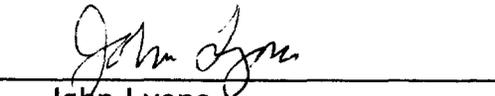
Sincerely,

Motorola, Inc.

By: _____


Robert G. Holcomb,
Corporate Director of
Environmental External
Affairs

By: _____


John Lyons,
Senior Counsel and Director,
Global Environmental
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