

54-422

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April 28, 1995

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

OSHA  
DOCKET OFFICER  
DATE APR 28 1995

Re: Respiratory Protection; Proposed Rule

Dear Docket Office:

Pursuant to the Notice of Proposed Rulemaking published at 49 Fed. Reg. No. 219, 58883 (1994), the New York City Transit Authority (NYCTA) responded on February 13, 1995 with comments on proposed revisions to the Occupational Safety and Health Administration's Respiratory Protection Standards (29 CFR 1910.134, 29 CFR 1915.152 and 29 CFR 1926.103).

According to a notice published at 60 Fed. Reg. No. 73, 19192 (April 17, 1995), OSHA has extended until May 15, 1995 the comment filing date for those who will testify at hearings on the revised standard. Although NYCTA has not asked to testify, it requests that it be permitted to amend its comments in light of this extension, as they contained an error as originally written. The requested change would be to substitute the word "quantitative" for the word "qualitative" where highlighted below in the comment excerpt:

3) Appendix A: Fit Testing Procedures (Mandatory)  
59 Fed. Reg. No. 219, 58947

(h) in order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g. quarter facepiece respirator, half mask respirator, full facepiece respirator) as specified in paragraph (f) of this section.

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Comment: This requirement is unduly burdensome. The QNFT is an objective and technologically advanced test, unlike the subjective qualitative test (QLFT), which uses more basic techniques. It is irrational to mandate three tests when the method used in the QNFT is more sophisticated, while requiring only a single test under QLFT procedures.

NYCTA uses the sophisticated Port-a-Count instrument, which is computer-linked, to perform **qualitative** fit tests of employees. The effectiveness and reliability of this equipment is well known. OSHA states that it will study use of the Port-a-Count, which is a necessary step before approving it for fit testing. NYCTA urges that OSHA explicitly authorize the use of this test equipment while its study is being carried out to prevent disputes over testing protocols with compliance officers.

Thank you for your attention to this matter. Should you have any questions, please call me at (718) 694-3900.

Respectfully submitted,

*Mary McLaughlin for*  
*Albert C. Cosenza*  
Albert C. Cosenza  
General Counsel