

54-5

RESPIRATOR SUPPORT SERVICES

2028 Virts Lane □ Jefferson, MD 21755 □ (301) 834-6008 □ FAX: (301) 834-6461

December 20, 1994

OSHA
DOCKET OFFICER
DATE DEC 20 1994
TIME _____

The Docket Office
Docket H-049
U.S. Department of Labor
Occupational Safety and Health Administration
Room N 2625
200 Constitution Avenue, NW
Washington, DC 20210

Re: Proposed Rulemaking on 29 CFR 1910, 1915, and 1926; **Respiratory Protection**
Federal Register / Vol. 59, No. 219 / Tuesday, November 15, 1994

This is to provide you with the enclosed comments on the above referenced proposed rule.

I have enclosed one original (hardcopy) and one 3-1/2" disk in WordPerfect 5.0 as requested.

If I may provide any additional information, please advise.

Sincerely,


John P. Hale
Enclosure

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COMMENTS ON THE PROPOSED REVISION OF OSHA'S 29 CFR 1910.134 as published in the Federal Register on 11/15/94

by John P. Hale, prepared December 20, 1994

Comment 1:

In general, it is very disappointing to see that much of the preamble to this proposed revision to 29 CFR 1910.134 is devoted to a discussion of the 1980 revision of the American National Standards Institute (ANSI) standard, Z88.2, "Practices for Respiratory Protection". It is apparent that OSHA had prepared this package in 1983 and is only now getting it pushed through the system. Only in a few places have you inserted gratuitous reference to the more recent 1992 revision.

The other striking feature of your lengthy dissertation is the defensive posture you seem to take in anticipation of an attack. Over 150 pages of the Federal Register are devoted to making all types of excuses for why you responded to criticisms made 10 years ago by various commentators about a preliminary draft of this proposed revision. What's the point? *"The lady doth protest too much methinks"*.

For whatever reason, OSHA personnel seem to have a predisposed notion about how these matters ought to be resolved. It is apparent to me that your "opinions" on many of these matters have been unduly influenced by the enormous powers-that-be representing some of the manufacturing and sales organizations.

It is also annoying that you speak, not in first person, or third person but rather as if you are a divine institution - perhaps like the Vatican. For example, you are forever saying things like: "OSHA feels...", "OSHA allows...", "OSHA believes...", "OSHA recognizes...", "OSHA agrees...", "OSHA emphasizes...", etc., etc. Perhaps the most ridiculous and disturbing is when you say: "it is OSHA's understanding..." - what an oxymoron. But enough of my sugarcoating - on to specific comments:

(b) Definitions -

Quantitative fit test (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring concentrations of a challenge agent inside and outside the facepiece. The ratio of the two measurements is an index of leakage of the seal between the respirator facepiece and the wearer's face.

Comment 1:

Many of the shortcomings of the previous standard, and for that matter - many other regulations - is simply in the specific wording. This is true here also. Why not word this in a way that can better accommodate future development? One simple way to do that in this example is to eliminate the words: "concentrations" and "agent". The result would read as follows:

'Quantitative fit test (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring a challenge inside and outside the facepiece. The ratio of the two measurements is an index of leakage of the seal between the respirator facepiece and the wearer's face.'

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(d)(2) Where elastomeric facepiece respirators 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 and from at least two different manufacturers.

Comment 2:

This is the first place in the proposed standard that OSHA makes special provision for filtering facepiece style disposable respirators. What is the motivation to extend special consideration for the least protective of all types of respirators? Why are we being compelled by law to accommodate, by reverting to less protective practice, inferior products? The beneficiary of such policy is certainly not the worker - it is the big money interests involved in the manufacture and sale of these products. Unfortunately, NIOSH is also at fault here - they give these products the same assigned protection factor rating of 10.

Aside from this issue it would be better to use language that allows for the variation that occurs in different workplaces. I strongly suggest the following wording taken from ANSI Z88.2-1992 (9.3.1):

'No one size or model of respirator will fit all types of faces. Different sizes and models will accommodate more facial types. Therefore, an appropriate number of sizes and models shall be available from which a satisfactory respirator can be selected.

The number of models and sizes necessary to fulfill the intent of this requirement will vary for workplaces. For example, in a workplace with four workers, one model and size may fulfill the requirement; whereas a workplace with a hundred wearers may require different models in various sizes.'

The regulation can indirectly control the necessary number of makes, models and sizes by virtue of an appropriately protective acceptance criteria established in fit test requirements. If fit testing is done properly, the appropriate number of makes, models and sizes will automatically be determined. It should not be arbitrarily mandated.

(d) Selection of respirators -

(3) In addition, the employer shall obtain and evaluate the following information for each work situation:

(ix) Fit test results;

Comment 3:

There should not be any reason to have to evaluate fit test results for the wearer every time a respirator is selected. Once properly fit tested then the employee should be qualified to wear that make, model and size for the specified period of time, e.g. for one year.

It is important that all wearer qualifications for a selected respirator be verified prior to each use. Therefore, it would be better to have item (ix) say:

'(d)(3)(ix) Respirator wearer qualifications (i.e., medical clearance, facial hair policy compliance, training, and fit testing);

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(d)(5) The employer shall make different types of respirators available for selection and shall assure...

Comment 4:

This is not clear. At what point is this to be accomplished? Available to who?

Perhaps this sentence was edited once already and does not carry its original intent?

(e) Medical evaluation - (1) For each employee required to wear a respirator for more than five hours during any work week, the employer shall obtain from a licensed physician a written opinion which states whether the employee has any detected medical condition which would place the employee's health at increased risk of material impairment from respirator use and any recommended limitations upon the use of respirators. ...

Comment 5:

Why exclude workers who wear the respirator less than 5 hours per week? What is the basis or justification for that number - or any minimum time period?

Some employers will use this as an excuse for not providing medicals for respirator users at all. They will either rotate workers so that they do comply with the 5 hour maximum, or will simply claim that they do.

Many employers will either interpret (in good faith) this to mean that OSHA does not require, or knowingly use this as an excuse to not perform, the medical clearance prior to respirator training and/or fit testing.

Any wearing of the respirator, including the relatively brief time encountered during training and/or fit testing could possibly cause physiological and/or psychological distress or worse. And certainly, a worker might be placed in a very stressful situation wearing a respirator for less than 5 hours per week.

For example, what about workers who may only wear a SCBA during an emergency response. It may be a reasonable interpretation of this statement by employers that such workers need not be medically evaluated. Hopefully it is clear that this is just the opposite of the way it should be.

What about the situation that both the employer and employee honestly expect that the use of the respirator will be less than 5 hours per week but then an unexpected circumstance occurs (perhaps a spill, an accident, or a prolonged rescue, or a change in production demands, etc.) and the respirator use increases dramatically. It is not reasonable or practical to expect that they will then take the time obtain a respirator medical exam. A proper medical exam by a licensed physician is something that typically must be planned for and scheduled well in advance.

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(f)(3) The employer shall fit test employees required to wear tight fitting air-purifying respirators and tight fitting atmosphere supplying respirators. ...

Comment 6:

The intent (I think) here is fine but the wording may mislead some to think that we are still talking only about devices that operate in a negative pressure mode.

I suggest improving and strengthening this statement as follows:

'The employer shall fit test all employees that may be required to wear any tight-fitting respirator facepiece, regardless of the configuration of device or its mode of operation. This may include negative-pressure air-purifying, positive-pressure air-purifying, and positive-pressure atmosphere-supplying respirators.'

(f)(9) Where an employer relies on an outside contractor/party to conduct quantitative fit testing and the contractor is not readily available, and where assigned protection factors greater than 10 are necessary, the employer may administer a qualitative fit test to enable the selection of a respirator provided that a quantitative fit is administered in accordance with Appendix A within thirty (30) days.

Comment 7:

What in the world do the authors of this proposed revision smoke? Why are you pandering to the employer / contractor relationship this way? Either the respirator fits or it doesn't. Either the fit test protocol works or it doesn't. If OSHA believes that qualitative fit test protocols are only good enough for use on half mask respirators as a matter of routine, what is the justification for this exception? Think about the workplaces where actual exposures will exceed ten times established exposure limits. Imagine wearing a respirator in an atmosphere containing up to 50 times the exposure limit for asbestos or benzene with a full facepiece respirator for up to 30 days based on qualitative fit testing results.

There are quite a few employers and contractors who will use this loophole to replace contract employees every 30 days.

Is it OK to go for 30 days without a proper hardhat or safety glasses just because the vendor cannot make delivery?

This provision must be eliminated in its entirety.

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(g)(3) The employer shall not permit negative pressure, pressure demand or positive pressure respirators which depend for effective performance on a tight facepiece-to-face seal to be worn by employees with conditions that prevent such fits. Examples of these conditions include facial hair that interferes with the facepiece seal, absence of normally worn dentures, facial scars or headgear that projects under the facepiece seal.

Comment 8:

The word "tight" here presents an opportunity for widely varying interpretation. Presumably the intent is to require the absence of facial hair and other interferences to the "seal" of any respirator that relies on the contact of the device to any portion of the wearers face for proper performance.

The larger issue of facial hair vs. respirator use has been a source of trouble for 25 years. Virtually every workplace has to struggle with this problem. This is in part a direct result of the inept wording that has controlled this issue in the existing 1910.134. OSHA does not appear to do much in the way of helping that in this proposed revision.

Suggested wording for OSHA to include in the regulation:

'All employers must establish and enforce the following facial hair policy regarding the use of respirators that rely on contact with the respirator wearers' face of any part of the respiratory inlet covering for protection.

It is not permissible for an employee to wear any tight-fitting style respirator, whether operated in a negative- or a positive-pressure mode, or any loose-fitting facepiece style respirator (that relies on contact of the respirator with the wearer's face), unless they are clean shaven in the sealing periphery (any point of contact on the face) of the respirator facepiece and further, they must not have any facial hair style that could have a possible adverse affect on the form, fit or function of the respirator. Judgement of satisfactory compliance with this policy shall be the responsibility of the respirator program supervisor.'

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(g)(10) The employer shall ensure that employees upon donning the respirator perform a facepiece seal check prior to entering the work area for all respirators on which such a check is possible to be performed. The recommended procedures in Appendix B or the respirator manufacturer's procedures shall be used.

Comment 9:

Here again, for some inexplicable reason, OSHA is setting a double standard for real respirators and for filtering facepiece disposables. Though they enjoy the same assigned protection factor rating and inherent widespread application and use, filtering facepiece respirators have inherent shortcomings that create a need to establish lower performance requirements in order to allow their use. What is the motivation for doing this?

Why do we have this strongly worded requirement that employers "shall ensure" performance of facepiece 'seal' check for all tight-fitting respirators except filtering facepieces or any other type whose design precludes such a check.

This check, which in the past has been commonly referred to as a "fit check" and is now being called a "seal check" is really a functional check for the most part. The only method of performing such checks are the well known negative and positive pressure checks performed in a very subjective way by the respirator wearer. Actual performance of these checks varies widely, even among experienced and otherwise knowledgeable people. Yes, there is some information to be obtained about gross facepiece-to-face leakage by performing these checks. But, there are no performance criteria, there is no known correlation between the result of this check and respirator fit or performance, and more importantly, there is widespread misunderstanding of the real purpose - a functional leak check of the entire respiratory inlet covering as it is worn.

There is seldom any mention in descriptions of this check for the appropriateness of anticipating possible leakage through or around respirator components (e.g., exhalation valves, inhalation valves, speaking diaphragms, lenses, points of attachment of filter assemblies, etc.) and what to do in the way of corrective action if leakage is detected. If this is to be a requirement, then it should be a requirement for all tight-fitting respiratory inlet coverings and it should be required that it be performed in a meaningful and effective manner.

(k) Training -

Comment 10:

This section must include a specific requirement regarding the need for employees to handle the respirators being trained on and inspect them, and don and remove them - Hands-On Training.

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Appendix B: Recommended Practices (Nonmandatory)

I. Facepiece Seal Checks

...

II. Recommended Procedures for Cleaning Respirators

...

D. When the cleaner used does not contain a disinfecting agent, respirator components should be immersed for two minutes in one of the following:

...

Comment 11:

This appendix must be mandatory.

Also, the statement in section II.D. (as cited above) is incorrect. It assumes somehow that the cleaning (however brief) in warm soapy water will disinfect the respirator. This is not the case.

Section XV. Proposed Substance Specific Standards Revision, 1910.1001 Asbestos (g)(4)(ii) and in 1910.1018 Inorganic arsenic (h)(3)(ii), and in 1910.1025 Lead (f)(3)(ii), and in 1910.1045 Acrylonitrile (h)(3)(iii), and in 1926.1101 Asbestos (h)(4)(ii).

Comment 12:

Why continue the unjustified need to fit test at least every six months? There is no technical basis for this requirement. Nor is there any justification for limiting qualitative fit testing to be acceptable only for fit testing half mask respirators. Nor does the need to perform fit testing have anything to do with whether you have more than 20 employees wearing respirators.

Why does OSHA propose to perpetuate these ridiculous requirements? Whose interest is being served by such nonsense?

Fit testing is fit testing. Specific protocol must not be determined by the particular hazard involved. Either the facepiece fits or it does not.

END