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April 13, 1995

54-387

Mr. Thomas Hall
OSHA Division of Consumer Affairs
Room N-3649
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

OSHA
DOCKET OFFICER
DATE APR 13 1995
TIME _____

Dear Mr. Hall:

Subject: Respiratory Protection Standard

Attached please find comments by the International Union, UAW, regarding the OSHA proposed standard for respiratory protection.

Sincerely,

Franklin E. Mirer, Ph.D.
Director
Health and Safety Department
International Union, UAW

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Enclosure(s)

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Comments
OSHA's Notice of Proposed Rulemaking
Respiratory Protection
Docket No. H-049

by

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The UAW welcomes this opportunity to comment on OSHA's notice of proposed rulemaking on respiratory protection. The proposed revisions, which would modify and update the existing respirator standard, are badly needed; OSHA's own statistics indicate the need for more standardized and explicit procedures for respirator use. The existing respiratory protection standard dates back more than 20 years, and fails to take into account current experience and knowledge. Current respirator requirements do not specify the performance required of employers, resulting in widespread lack of protection for employees. The ultimate goal of the proposed standard is to protect employees from serious harm due to chemical overexposure, but certain provisions fall short of providing the best possible protection for workers.

For these reasons, the UAW requests that a public hearing be conducted.

The UAW notes that the large majority of respirator use in the facilities where UAW members work is voluntary -- at the spontaneous request of employees -- for air contaminants not determined or well below existing limits. In addition, some work assignments for which respirator use is required by the employer, such as paint spray, have exposure levels less than 1/5 of applicable OSHA standards. The UAW reserves final comments as to the extent that full respiratory protection requirements should apply to such "courtesy" respirators. However, the UAW believes that a fit test and training should be required wherever respirators are permitted to be used in the

workplace, and that employers should not be permitted to escape training requirements by prohibiting use of respirators where employees request such use.

The next largest category of respirator use is for emergency response--confined space entry applications where contaminants and levels of exposure have not been identified. Another large category of use would be for activities involving incidental contact with building and process insulation materials which might contain asbestos.

The UAW believes there are several critical problems with present respiratory protection programs which the standard needs to correct:

1. Employees wear respirators which do not fit, which result in "catastrophic" failure of respiratory protection, which is to say, no protection at all;
2. Employees wear respirators for the wrong contaminant, notably paper dust masks where the exposure is to a gaseous or vapor phase contaminant, resulting in no protection at all;
3. Employers do not observe effectiveness of and compliance with respiratory protection programs, resulting in employees wearing respirators sporadically or only when OSHA inspectors are on site, resulting in little or no protection against contaminants;
4. Employers evade the responsibility for ongoing observation of the effectiveness of the program by providing single use respirators, which eliminate the need for maintenance and cleaning.

The most important single feature of a modern respiratory protection program is that the employee don the equipment, take and pass a fit test under appropriate test or actual use conditions, using a respirator equivalent to the respirator employed at work. Passing such a test is the essential performance standard for a respiratory protection program.

The second most important feature is that the employer evaluate on a quantitative basis the effectiveness of the program.

(a) Scope and application

This section describes the hierarchy of controls, mandating that engineering controls be used wherever feasible to reduce or eliminate hazardous exposures. In the UAW's experience, respirators commonly serve as a substitute for engineering controls. OSHA should aggressively enforce this provision.

According to OSHA, respirators must be provided when exposures exceed the "hazardous exposure level", which means:

- (1) the OSHA Permissible Exposure Limit (PEL);
- (2) if there is no PEL for the hazardous substance, the ACGIH Threshold Limit Value (TLV);
- (3) if there is no PEL or TLV, the NIOSH Recommended Exposure Limit (REL).

The UAW objects to this hierarchy because the NIOSH RELs should take precedence over the ACGIH TLVs. ACGIH TLVs are not sufficiently protective because they are intended to protect most employees from material impairment of health, whereas OSHA is obliged to protect all employees from significant hazards. Moreover, NIOSH has the legislative authority to recommend occupational exposure limits to OSHA, to test and certify respirators, and to conduct research on workplace hazards. It is unacceptable for OSHA to accord greater authority to a private, consensus standard group than its sister agency.

The UAW reserves final comment on the application of respirator program requirements to situations where there is no standard by either OSHA, NIOSH, or ACGIH but the employer requires use, or where employees request use.

(c) Respiratory protection program

The UAW agrees that a written respiratory protection program should include the mandatory elements listed in (c)(1) of the proposal. The program must be site-specific; therefore a generic program that can be purchased from a vendor is not sufficient. The written program should also include specific procedures for determining when a cartridge or filter needs to be changed.

Section (c)(2) states that "The employer shall designate a person qualified by appropriate training and/or experience to be responsible for the management and

administration of the respiratory protection program and for conducting periodic evaluations of its effectiveness". These are critical tasks, and therefore OSHA must provide a clearer definition of a "qualified person". OSHA notes that it is difficult to specify the type and level of training needed for many different work sites and situations. Instead, OSHA could define a body of knowledge necessary to carry out the duties of a qualified person, for example: "A qualified person should understand . . ." or "A qualified person should be able to . . .". The UAW agrees that one individual should have overall responsibility for the respiratory protection program.

OSHA should consider a mandatory permit system for respirator use, analogous to confined space entry permits (29 CFR 1910.146). The permit checklist would remind both the employee and the qualified person (noted above) of proper procedures and potential hazards. The qualified person would have to review and sign the permit before a respirator is donned.

(d) Selection of respirators

Selecting an appropriate respirator is perhaps one of the most difficult elements of a respirator program. OSHA provides a list of information that the employer must consider for each work situation, but OSHA does not specify how the employer should use, consider, or prioritize this information; OSHA must be more explicit.

In the proposal preamble, OSHA emphasizes that "The proper selection and use of a respirator depends upon an initial determination of the concentration of the hazard or hazards present in the workplace". In section (d)(3)(v), OSHA states that the employer must obtain and evaluate "[t]he results of workplace sampling of airborne concentrations of contaminants". OSHA recognizes that without accurate knowledge of airborne concentrations, the employer will not be able to determine what protection factor is needed to assure adequate employee protection. Therefore, OSHA should require employers to perform initial air monitoring/exposure assessment as part of the respirator selection process. To facilitate respirator selection, OSHA should provide a respirator selection decision logic as NIOSH has done previously.

The UAW agrees with OSHA that employees should be able to choose from several different sizes and brands of elastomeric facepieces. This will assure maximum fit and comfort, and increase employees' willingness to wear a respirator. OSHA should give employees who wear respirators for long periods of time the option to use a powered air-purifying respirator (PAPR). PAPRs are cooler, more comfortable, and offer less breathing resistance than negative-pressure respirators.

The UAW agrees that all workplace respirators should be approved by NIOSH and/or MSHA. These agencies have the personnel, facilities, and expertise to evaluate respirator effectiveness. Respirators from different manufacturers are not designed to have interchangeable parts. Therefore, OSHA should prohibit the exchange of any respirator parts without NIOSH/MSHA certification.

In the current proposal, OSHA allows the use of air-purifying respirators for hazardous chemicals with poor warning properties if:

- the taste, odor, or irritation threshold is not greater than three times the hazardous exposure level, and
- (i) the respirator has an end of service life indicator approved by NIOSH; or (ii) canisters, cartridges and/or filters are changed according to a schedule that assures their replacement before the end of their useful service life.

Unfortunately, little information is available on the service life of gas and vapor sorbents. Additionally, service life may be affected by the make and model of the sorbent element, airborne concentration of hazardous contaminants, and relative humidity (NIOSH Guide to Industrial Respiratory Protection, 1987). Therefore, OSHA should mandate end of service life indicators approved by NIOSH for contaminants with poor warning properties.

Furthermore, OSHA should prohibit the use air-purifying respirators when the taste, odor, or irritation threshold is greater than the hazardous exposure level. Otherwise, the wearer may not be adequately warned when chemical breakthrough has occurred, possibly incurring exposures substantially higher than the PEL, REL, or TLV.

OSHA is proposing to rely on NIOSH to develop current assigned protection factors (APFs) for respirators. In the interim, OSHA will require employers to use the

APFs in NIOSH's 1987 Respirator Decision Logic. OSHA admits that these APFs are outdated. Until NIOSH publishes new APFs, OSHA should also consider APFs from other sources, such as ANSI.

The UAW notes that protection factors in use may be substantially less than the assigned protection factors or the protection factors found in manufacturers testing. The most common failure mode is catastrophic failure because of poor fit or other program deficiencies.

(e) Medical evaluation

OSHA is proposing to require a medical evaluation for anyone who wears a respirator for five or more hours in a week, but provides no evidence to support this threshold. Consequently, emergency responders and other workers who wear respiratory protection under the most stressful and strenuous circumstances may not be entitled to a medical evaluation. Also, it is conceivable that some employees will be physically unable to wear a respirator, even for five hours a week.

In addition, the five-hours-a-week minimum is confusing: Can employers average over a number of weeks? Or does exceeding the five-hour limit in one week out of the year trigger the medical evaluation requirement?

The UAW's position is that all employees who require a respirator should be medically evaluated by a physician or other relevant health professional(s) under the supervision of a physician. Moreover, OSHA should specify the criteria for determining whether an employee is fit to wear a respirator (for both initial and repeat exams). Appendix C -- which outlines these criteria and the nature of the examination -- should be mandatory, as many physicians are unfamiliar with workplace exposures and respirator physical demands. Medical examinations should be provided at least annually, as OSHA has proposed, or whenever an employee experiences breathing (or other potentially serious health) difficulties; OSHA recognizes that physical conditions may change. The UAW agrees that medical evaluations should be provided for employees who wear all types of respirators, not just negative pressure respirators.

OSHA should require employers to provide an alternative type of respirator (such as a PAPR or supplied air) for employees who cannot wear a negative pressure respirator.

OSHA raises the question of medical removal protection (MRP) for employees who are not able to wear a respirator. The UAW believes that OSHA must require both medical removal protection (MRP) *and* multiple physician review (MPR) *every* time OSHA requires the employer to *offer* a medical examination which may result in adverse effect on an employees' job assignment. The rationale is the same for the respirator standard as for the lead standard. The purpose of the exams is to provide the employee and employer with early information about physical conditions or early effects of exposure which place the employee at risk. Most of this information is in the form of reports of symptoms. Employees will likely not report this information if they feel their jobs are placed in jeopardy. This will defeat the purpose of the exams. Therefore, MRP-MPR is not only justified but necessary for the protection of such employees. Similar provisions can be found in other OSHA health standards (for example, the lead standard).

(f) Fit testing

OSHA must require specific and standardized procedures for fit testing as detailed in Appendix A.

OSHA asks how new fit testing technology can be encouraged with rigidly-defined procedures, and concludes that new methods must be submitted to OSHA for prior approval. However, as OSHA has already stated, OSHA does not have the facilities or expertise for experimental evaluation of new fit testing methods. Therefore OSHA would not be able to validate or corroborate data submitted by employers. New technologies should be approved by NIOSH, not OSHA.

OSHA should require fit testing for positive pressure respirators because these respirators do not always maintain positive pressure. The problem in use with positive pressure respirators is overbreathing on exertion, which is difficult to determine from tests performed at rest. The proposed standard would allow fit testing with a respirator

of the same brand, model, and size; however, the UAW is concerned about the possibility that even slight variations from one respirator to another may affect fit testing results. Therefore, fit tests should be performed with the very same respirator that will be worn by the employee.

Fit testing should be required initially, and every six months thereafter because changes in weight, facial hair and scarring, dental work, and cosmetic surgery may alter respirator fit. OSHA's proposal relies unrealistically on visual observation (by the employer?) to identify the need for repeat fit testing.

If an employee is not comfortable with a respirator after two weeks, the employee may select a different respirator. The UAW commends this provision, as employees are less likely to wear respirators that are painful.

As stated in Appendix A, test agents must not pose a health or physical hazard for the test subject or personnel. Therefore, OSHA should not allow any new test agents that are carcinogens.

(g) Use of respirators

Beards are prohibited for all respirators that require a tight seal. Employers should be required to provide alternate respirators with loose-fitting facepieces for employees with beards. OSHA notes that few employees request PAPRs when given the option under other OSHA health standards; this is probably because few employees are aware that they have the right to choose a PAPR. OSHA should require low flow alarms on all existing PAPRs, and any new PAPRs.

OSHA is permitting the use of contact lenses with full-face respirators. OSHA should not allow contact lenses in IDLH areas, because problems with a contact lens could result in the momentary removal of the respirator by the wearer.

It makes good sense to allow employees to leave the respirator area to wash whenever they feel it is necessary. This will encourage good hygiene and result in fewer hygienic problems.

(h) Maintenance and care of respirators

Respirators should be stored in a clean location outside of the work area to prevent contamination. The employer should not be permitted to evade responsibility for maintenance, inspection and cleaning by leaving respirators in the long term personal custody of employees. Appendix B (Recommended Practices) should be mandatory.

(k) Training

The proposed standard requires initial and annual training. Additional training should be required whenever the employer has reason to believe that (1) employees do not comprehend an element of the employer's respirator program, (2) the worksite respirator program is not adequate, or (3) respiratory protection procedures are not being followed.

Training should be specific to the workplace, and provide hands-on practice with respiratory equipment. Employees must have the opportunity to ask questions. The training program should also include instruction on (1) how and when to change respirator filters/cartridges, and (2) the appropriate respirator(s) for each employee or task.

(l) Respiratory protection program evaluation

The UAW agrees that employers must evaluate the effectiveness of the respirator program at least annually, and make frequent random inspections to identify problems with the program or equipment. Employers must also consult with employees, and attempt to identify and correct any problems. These provisions will ensure that employees have the most comfortable and protective equipment.

(m) Recordkeeping and access to records

All records should be made available to employees and designated representatives upon request, including: medical evaluations, respiratory protection programs, training records, MSDSs, and exposure monitoring records. All of these records should be provided as required by the OSHA Access Standard (29 CFR 1910.20).

Differing periods of retention for some records, such as training records, may be employed.

Proposed Substance Specific Standards Revisions

OSHA's proposed substance-specific revisions omit standards issued after 1988, including standards for benzene, cadmium, and formaldehyde.

Employee participation.

All OSHA standards should have basic employee participation requirements. The UAW provides the following restatement of the worker participation elements as examples of specific approaches which might be followed:

a. Formal compliance plan document, including training elements, incorporating all records required under the standard, available for immediate examination and copying by workers and their designated representatives (and OSHA inspectors).

The compliance plan should include description of methods considered for eliminating the exposures for which respiratory protection is required.

b. Structured involvement of workers and their representatives in the evaluation of hazards of each job assignment for which respirators are required, such as through task analyses.

c. Review of training materials, methods and personnel by worker representatives and workers prior to implementation, with opportunity to comment.

d. Similar review of the compliance plan as a whole.

- e. Recording and incorporating comments by worker representatives into the compliance plan.
- f. Inclusion of the compliance plan and rights under the standard as an element of respirator.
- g. Opportunity of worker representatives to observe and participate in all observations of effectiveness of the program.
- h. Recording of all measurement results and other observations of effectiveness into the compliance plan document.
- i. Worksite self inspection, with observation by worker representative.

The emphasis on documentation is only to provide a means of disciplining the hazard evaluation process. Without documentation, workers and OSHA inspectors can't evaluate the development process.

The only element of this proposal which extended beyond other OSHA chemical exposure standards is the requirement that employers review the plan with worker representatives prior to implementation, record comments of worker representatives into the compliance plan, and include these comments in the training. This review step has been established through contract negotiations with major UAW employers or routine practices at the plant.

The requirement that employers incorporate comments and convey through training is a new opportunity. This strikes a balance between employers' authority to implement the program over objections; and workers' right to act before the program is cast in stone. This element would discipline the process and encourage employers to resolve disagreements with employee representatives.

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