

SERVICE EMPLOYEES

INTERNATIONAL UNION, AFL-CIO, CLC

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The Service Employees International Union, AFL-CIO, CLC (SEIU) appreciates the opportunity to comment on OSHA's proposed general industry Respiratory Protection standard (29 CFR 1910.134). SEIU represents 1.24 million workers employed in health care, building service, state and local government, and manufacturing in 40 states, the District of Columbia, Puerto Rico, and Guam. Many of SEIU's 450,000 health care workers require respiratory protection from airborne tuberculosis under CDC guidelines. Tens of thousands of the janitors, building maintenance workers, auto mechanics, park workers, road crew workers, and sewage treatment plant workers we represent use respirators on a regular basis. They work with acid cleaners, asbestos, paints (including lead paint), pesticides, solvent cleaners, welding fumes and vapors, and thousands of other hazardous airborne contaminants, many on a daily basis.

General

SEIU applauds both the level of detail and the new requirements in the proposed standard. For example, proposed paragraph (k) spells out training in more detail than the current standard, but also adds the requirement for Hazard Communication training. The Agency can play an important educational role with employers by providing this kind of guidance. SEIU feels this will help employers to understand the important, but often confusing topic of respiratory protection.

SEIU also feels that the order of the proposed standard is much more logical than the current standard. For example, maintenance requirements that are currently in paragraphs (b) and (f) are combined into one proposed paragraph (h).

Proposed Paragraph (a)--Scope and Application

OSHA has asked for comments on whether some of the standard's requirements could be optional in "low risk" situations. SEIU feels strongly that a staggered system of requirements would lead to confusion and misuse of respirators.

SEIU feels that OSHA should explicitly address preemption of substance-specific standards in this paragraph. OSHA has mentioned preemption in the preamble, e.g., in section VII. D. 4. with reference to protection factors in the asbestos standard.

Proposed Paragraph (b)--Definitions

SEIU strongly supports this definitions paragraph. We believe it will aid employers in understanding this technical topic. SEIU strongly supports the inclusion of TLV's REL's and other established exposure limits in the definition of "Hazardous Exposure Level." We applaud OSHA's definition of a "Respirator"

--in many instances, employers make respirators available to overexposed employees on a "voluntary" basis, and then argue that they are not subject to the standard, since use by employees is not mandatory. SEIU feels the following terms should be defined:

"fume" and "vapor" (since they are used in a specific technical sense for respirators, but are usually confused in common parlance (e.g., "diesel fumes"))

"quarter facepiece," "half mask facepiece," and "full facepiece" (as defined in the preamble section II. C.)

"tight-fitting respirator" (since it is used several times in proposed paragraphs (c) and (f)) It is not clear whether OSHA means to exclude mouthpiece escape respirators from this term.

The definition of "Air-purifying respirator" should be amended to explicitly exclude Powered Air-Purifying respirators, per proposed (f)(6)(iii).

Proposed Paragraph (c)--Written Program

(1)(iv) Replace "air-purifying respirators and tight fitting positive pressure respirators" with "tight fitting respirators," since all air-purifying respirators are tight-fitting.

(1)(v) SEIU strongly supports the requirement for maintenance schedules. This will ensure that policies include enough guidance to be useful in the workplace.

(1)(vi) SEIU strongly supports the addition of "quantity and flow" to the requirements for atmosphere-supplying respirators, in addition to air quality.

(2) SEIU supports the proposed performance-oriented qualifications for the designated person. We feel that the designated person must have attended and completed the same training that is provided to employees per proposed paragraph (k). We also feel strongly that the person should have supervisory authority, since they are responsible for ensuring the effectiveness of the program.

(3) SEIU strongly supports the explicit requirement to make the written respiratory protection program accessible to workers and their representatives. This requirement has many precedents in other OSHA standards, such as 1910.1200.

Proposed Paragraph (d)--Selection

SEIU strongly supports the explicit requirements to provide respirators at no cost, and to make available a range of respirator sizes and styles in proposed paragraph (d)(1) and (2). SEIU agrees with OSHA's statement that "achieving the best possible fitting respirator . . . is only possible when an adequate selection is available." Many employers fail to provide more than one brand of respirator because suppliers do not carry a variety of brand, and because it is inconvenient to order cartridges and parts for more than one brand. In the case of atmosphere-supplying respirators, OSHA should acknowledge that it may not be feasible to offer different styles, as it is not permitted to use different styles of facepieces with the same air supply (e.g., with a Type C supplied-air respirator system).

SEIU strongly supports the detailed list of factors to be considered in respirator selection (proposed paragraph (d)(3)). OSHA has successfully incorporated the important framework from the NIOSH decision logic, but in an up-to-date and easy-to-understand form. We feel this will be much more useful to employers than the current, vague language: "respirators shall be selected on the basis of hazards to which the worker is exposed" (current paragraph (b)(2)). OSHA might consider publishing the explanation of the 11 factors from section VII. D. 2. of the preamble as a non-mandatory, informational appendix, together with a few case studies illustrating respirator selection.

SEIU finds the language in (d)(3), "the employer shall obtain and evaluate the following information," to be ambiguous. It is not clear that employers must conduct air monitoring in all cases where respirators are used, and in fact the preamble seems to imply that monitoring may be done at the discretion of the employer (preamble section VII. D. 2. (v)). OSHA should strengthen the wording to make it clear that employers must obtain and account for all of the factors (i-xi) listed. In addition, certain factors (vi, viii, and ix) imply a person-by-person (not work area by work area) assessment.

SEIU supports the continued requirement for workplace sampling of airborne contaminants (proposed paragraph (d)(2)(v)). The phrase, "except where feasible sampling methods do not exist (e.g., biological hazards)" should be added. Many of our members use HEPA filtered-respirators for protection against airborne tuberculosis, molds, spores, and other biological hazards for which sampling methods for airborne concentration (e.g., a NIOSH analytical method) do not currently exist. We also encourage the Agency to continue its work on a generic monitoring standard, to ensure that sampling is conducted in an appropriate, accurate manner.

SEIU strongly supports the use of only NIOSH-approved respirators (proposed paragraph (d)(4)). This is a simple, reliable means for both employers and workers to assure that respirators are suitable for a particular use. SEIU is concerned that allowing non-approved respirators will further undermine the credibility of NIOSH approval, and lead to use of unsuitable devices (such as surgical masks in health care facilities). SEIU does not believe that OSHA is discouraging the development of independent respirator certification laboratories, as employers may always apply to OSHA for a variance to the standard. We feel that OSHA should also address in this paragraph the voiding of NIOSH certification that results from modifications to respirators.

SEIU strongly supports the limits on air-purifying respirators, which have been well justified by NIOSH in the Decision Logic (proposed paragraph (d)(8)). SEIU is concerned about allowing the use of cartridges with end of service life indicators that depend on the presence of moisture in the air (e.g., carbon monoxide), even when the cartridges have been approved by NIOSH. In dry atmospheres, these cartridges can allow dangerously high levels of exposure.

Sub-paragraphs (10)(i)-(iii) are very complicated and confusing. Perhaps OSHA could present the requirements in tabular form, or define two or three classes of oxygen-deficient atmospheres separately while maintaining the proposed requirements. For example, if OSHA defined a Class A, B and C oxygen-deficient atmosphere, sub-paragraph (ii) could read, "'An atmosphere-supplying respirator shall be used in class B oxygen-deficient atmospheres."

Proposed Paragraph (e)--Medical Evaluation

SEIU strongly supports the mandatory periodic medical evaluation and physician information requirements for all workers who wear respirators. SEIU supports a modified version of "Alternative 3" from the preamble (Section VII. E.) as follows:

- 1) Every worker should receive an actual annual physical examination, performed by or under the direction of a physician. This should be specified in a mandatory Appendix C.
- 2) Every worker should also fill out an initial medical/work history as part of the physical examination. The medical/work history form should be specified by OSHA.

3) Answers to specific questions on the medical/work history or findings from the physical examination should trigger further medical tests.

SEIU feels that requirements should not be staggered for different types of respirators. SEIU feels strongly that this would lead to confusion and misuse of respirators.

SEIU feels that Appendix C is unnecessarily vague, and should include the list of medical conditions that may interfere with respirator use from preamble section VII. E.

SEIU is concerned about potential violations of the Americans with Disabilities Act (ADA) associated with medical evaluations. For example, the first element of the medical examination is listed as hearing ability, for which employers can easily provide reasonable accommodation. We also feel the physician should be board-certified in Occupational Health.

SEIU is concerned about the cutoff of five hours per week for medical evaluation. Workers with serious cardiac or pulmonary conditions could suffer serious adverse health effects from wearing a respirator in far less than five hours of continuous use (as mentioned in the preamble section VII. E.). Perhaps employers would be less resistant to a requirement that employees have the right to request a medical evaluation for respirator use of one hour per shift up to five hours in any one week of respirator use, in addition to the proposed 5-hour threshold.

SEIU feels that OSHA should address the confidentiality issues raised by medical evaluations. We feel that physicians' written reports should not detail all of the findings of exams, but should merely approve or disapprove the use of a particular respirator(s).

SEIU agrees with commentors that OSHA should include respirator substitution and medical removal rights for workers who do not receive medical clearance for a particular type of respirator. For example, a worker who is not cleared to wear a negative-pressure respirator may be able to perform the same job using a powered air-purifying respirator (as mentioned in the preamble section VII. E.). The right to such a respirator should be granted to workers in the standard, as it is in the asbestos standard. Similarly, SEIU agrees with commentors that a worker who is not cleared to wear a respirator should be granted the right to transfer to any similar available job that does not require the use of a respirator.

Proposed Paragraph (f)--Fit Tests

SEIU strongly supports the specific fit test protocols and the requirements for regular fit tests. SEIU agrees that employers should be allowed to use either qualitative or quantitative fit tests.

Sub-paragraph 3 could be simplified by substituting "all tight-fitting respirators." Sub-paragraphs (3)-(6) are wordy and hard to understand. This section would be clearer if OSHA defined a term such as "approved Fit Test Protocol." This could replace the phrase "the established protocols specified in section II of Appendix A or new protocols that meet the minimum criteria contained in section I of Appendix A," which is used seven times in the proposal. The term "tight-fitting" can be deleted from sub-paragraphs (3)-(6) since sub-paragraph (2) explicitly excludes respirators that are not tight-fitting from the requirements of the paragraph.

Sub-paragraph 6 would be easier to understand if it were in tabular form with the addition that follows:

"Fit Test Requirements
for Air-purifying and
Atmosphere-supplying Respirators"

Type of respirator	Type of approved Fit Test	Minimum fit factor	Maximum Use Concentration
Air-purifying			
Quarter facepiece	QLFT	NA	10 x HEL
	QNFT	100	10 x HEL
Half mask facepiece	QLFT	NA	10 x HEL
	QNFT	100	10 x HEL
Full facepiece	QLFT	NA	10 x HEL
	QNFT	500	50 x HEL
Powered air-purifying			
Quarter facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	100	NIOSH APF x HEL
Half mask facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	100	NIOSH APF x HEL
Full facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	500	NIOSH APF x HEL
Atmosphere-supplying			
Quarter facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	100	NIOSH APF x HEL
Half mask facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	100	NIOSH APF x HEL
Full facepiece	QLFT	NA	NIOSH APF x HEL
	QNFT	500	NIOSH APF x HEL

"Positive-pressure respirators--Fit tests for positive pressure respirators shall be conducted with only the facepiece, and without . . . [as in proposed (f)(6)(iii)(B)(1) and (2)]"

SEIU is not clear whether OSHA is proposing a Protection Factor of 10 for disposable D, DM, and DMF respirators, which in the past have been assigned a Protection Factor of 5 by NIOSH.

Proposed paragraph (f)(6)(iii)(A) appears to contradict paragraph (f)(6)(iii)(B)(2). (f)(6)(iii)(A) refers to (f)(6)(i)(B), with a maximum use concentration of "10 times the hazardous exposure level," whereas (f)(6)(iii)(B)(2) refers to (d)(5) and (6) (the NIOSH APF).

"Changes in dental work that affect facial shape" should be added to proposed sub-paragraph (f)(7) (as in section Vii. D. 1. of the preamble). SEIU strongly supports the two-week acclimation period in proposed sub-paragraph (f)(8).

Proposed Paragraph (g)--Respirator Use

SEIU strongly supports written procedures for respirator use. OSHA should consider defining "retrieval equipment" in proposed paragraph (g)(2)(iii). Body belts and a rope would appear to be allowed, as long as the area is not a permit-required confined space. Experience with confined space rescues shows that full-body harnesses and mechanical retrieval devices are required for emergency rescue from life-threatening atmospheres. OSHA should also consider allowing pressure-demand supplied-air respirators with auxiliary escape SCBA in addition to positive-pressure SCBA for emergency assistance personnel, since small entrances may limit egress with backpack devices. In addition, OSHA should note that respiratory protection alone is not adequate for rescue from atmospheres containing contaminants that are absorbed through the skin.

SEIU agrees with ICWU that OSHA should add a list of respirator types that can be used with facial hair to paragraph (g)(3). Despite the potential confusion, SEIU feels that the beginning of this paragraph should be simplified to read ". . . shall not permit tight-fitting respirators . . ." SEIU agrees with OSHA that the use of contact lenses should be allowed.

SEIU strongly supports the proposed employee rights in (g)(5)-(7). Proposed paragraph (g)(8) should be cross-referenced to proposed paragraph (h). Paragraph (g)(8) states that malfunctioning respirators must be "repaired, or discarded and replaced," but in paragraph (h)(4) they must be "removed from service and repaired or adjusted." OSHA should standardize these two paragraphs.

SEIU supports discarding disposable respirators at the end of each task as proposed in paragraph (g) (9). In hospital facilities where disposable respirators are placed outside of a patients room, it is very easy for a healthcare worker to dispose of a respirator at the end of each task and to don a new respirator. We recommend inserting language that requires disposable respirators to be readily and easily accessible.

SEIU has reservations about the use of respirators where a facepiece seal check cannot be performed (proposed (g)(10)), even ones that have been approved by NIOSH. There is strong evidence that facepiece seal is dramatically more important than filter efficiency in worker exposure.

Proposed Paragraph (h)--Maintenance

SEIU feels that paragraph (h)(3) should come first, since inspections must be performed before donning. SEIU strongly supports replacing "should" in the current standard (f)(5)(i) and (ii) with "shall" in the proposed standard. "After each use" in (f)(5)(i) should be replaced with "before they are worn by another user." Replace "Routinely used" with "Non-emergency," (as in (h)(3)(i)(A))--this implies that non-emergency respirators that are only used occasionally do not fall under this paragraph. SEIU agrees that either employers or employees may perform the actual cleaning and disinfecting of respirators.

SEIU agrees with the performance-oriented storage requirements in paragraph (h)(2).

Paragraph (h)(3) should require that respirators which do not pass inspection must be tagged "out of service" until they are repaired pursuant to paragraph (h)(4). OSHA should add a requirement in paragraph (h)(4) for employers to keep an adequate supply of cartridges and other routinely-replaced parts that workers themselves can replace (such as inhalation or exhalation valves or exhalation valve covers) in stock and easily accessible to workers at all times. SEIU also feels that OSHA should mention the need to charge and monitor PAPR batteries in this paragraph.

Proposed Paragraph (i)--Supplied Air

SEIU feels that the summary of Grade D breathing air standards in (i)(1) will be useful to employers. We feel that Grade E air of reliable quality may be difficult for employers to obtain. SEIU staff have not found SCUBA shop compressor equipment to be as well maintained as industrial gas supply equipment.

In sub-paragraph (4), SEIU is very concerned about the deletion of the requirement for either a high-temperature or CO alarm in certain compressors (current sub-paragraph (d)(2)(ii)). We feel that the requirements in (i)(1) and (i)(3) alone are not sufficient to ensure that carbon monoxide is not entrained in the system. SEIU feels a CO alarm should be required for all

compressors. SEIU also feels that the standard should also address the regular replacement of filter media and alarm sensors in compressor systems.

Proposed Paragraph (j)--Cartridges

SEIU feels that the table of cartridge colors in the current standard is useful to employers, and should be retained as a non-mandatory appendix. In addition, it would be helpful to give examples of representative contaminants for each category (e.g., "acid gases (such as sulfur dioxide)," or "gases not included in this table (such as mercury or carbon monoxide)"). In addition, a section of references (as in the Hazard Communication standard) could be added to aid employers in cartridge or filter selection.

Proposed Paragraph (k)--Training

SEIU strongly supports the clear, explicit annual training requirements proposed. We feel that OSHA should require training to be provided "in a manner which the employee is able to understand," as in the Asbestos standard 1910.1001 (j)(5)(ii) (6/8/92 revision--deleted in 8/8/94 revision). In paragraph (k)(1)(ii), training should specifically include a list of conditions (as in Appendix C. (B) (1)-(8)) that may preclude wearing certain types of respirators, or wearing a respirator at all (e.g., negative-pressure respirators may not be suitable for workers with reduced pulmonary function, most respirators are unsuitable for workers who are claustrophobic).

SEIU feels that OSHA should include the ANSI requirement for discussing engineering controls in respirator training. Our experience with our members shows that employers consistently require respirator use in lieu of instituting engineering controls. SEIU feels that OSHA should prohibit video-only training, as it has in the bloodborne disease standard, and require that a person be available to answer questions. We feel that OSHA should consider minimum required length of initial training time, perhaps of graduated lengths for each type of respirator.

SEIU is very concerned that the proposed standard is not clear about the requirement for an actual fit test during training (current paragraph (e)(5)). We are concerned that workers will be pressured to wear respirators once they have been trained, but have not yet had a fit test.

Proposed Paragraph (l)--Program Review

SEIU strongly supports a regular review of the written respiratory protection program, with input from workers (g)(2). The review should include the written standard procedures for use in paragraph (g).

Proposed Paragraph (m)--Recordkeeping

Paragraphs (m)(2) and (3) substantially repeat the requirements of 1910.120 and could be shortened by reference to that standard.

Proposed Appendix A--Fit Test Protocols

SEIU strongly supports mandatory fit test protocols. We also support the flexibility that comes from approving new fit test protocols. We feel the 95% of users/95% confidence level requirements are reasonable. We feel that for the sake of clarity proposed Section II: Current Fit Test Protocols should come before proposed Section I: New Fit Test Protocols.

SEIU feels that employers should be required to post a concise, understandable summary of the Fit Test Protocol during the fit test, both to explain to workers what will happen during a fit test, and to ensure that the complete protocol is followed. SEIU also feels that OSHA should mandate the minimum duration of a fit test at 12 minutes 30 seconds (15 seconds to select a facepiece, 5 minutes to wear the respirator per section II. 5. of the Appendix, and 7 minutes 15 seconds per sections II. 14. (a)-(h) of the Appendix).

SEIU objects to the use of non-irritant challenge agents (isoamyl acetate and saccharine). We have found that many of our members are pressured to complete fit tests quickly and get back to work, and hence will not acknowledge when a respirator has leaked during a fit test. The reaction to an irritant fume is very difficult to disguise. SEIU also agrees with the St. Joe Lead Company that the use of carcinogenic test agents, "would tend to undermine the positive psychological value" of the QNFT. In addition, SEIU is concerned about exposures to "field practitioners" conducting QNFTs.

OSHA allows any of the three protocols for any respirator. However, in the preamble section VII. (F), OSHA states that only the saccharine solution aerosol protocol has been validated for QLFTs with disposable DM respirators.

Section II should begin with preconditions for a fit test: medical evaluation (e), conditions that interfere with facepiece seal (e.g., beards, glasses with full facepiece respirators) (g)(3)-(4), training (k), as well as prohibiting the use of vaseline or other substances to obtain a face seal.

Section II. A. 8. requires a fit check in all cases, but (g)(10) requires a fit check where possible. II. A. 11. duplicates (f)(8) and seems out of place.

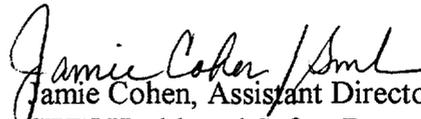
The recordkeeping requirements of II. A. 12. are not mentioned in paragraph (m). II. A. 13. should be moved to the beginning of section II, as it concerns instructions to be given before fitting. II. A. 14. states the test subject may "read from a prepared text"--this should refer to the warning in II. B. 4. (d) when using the irritant fume protocol. SEIU strongly supports alternatives to reading texts, as literacy is also an issue for many of our members. SEIU strongly supports the requirement for local exhaust ventilation in II. B. 4. (h), since testers must otherwise wear a respirator, which interferes with communication.

Proposed Appendix B--Fit Checks and Cleaning

I--Facepiece seal checks--These are difficult to do with atmosphere-supplying respirators without an auxiliary cartridge. The standard should explain that the air supply should be disconnected, and the negative pressure check performed by covering the hose inlet.

II--Cleaning--SEIU agrees with the ANSI Z88.2 committee and Dow Chemical that the manufacturers recommended cleaning and disinfecting procedures should be followed. Employers should be warned that the recommended disinfectants in this proposed Appendix can damage some respirator parts (e.g., some ESCBA hoods).

Sincerely,


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