Radiation Safety Associates, Inc.

January 2, 1992

Charlene Radditz
U.S. Nuclear Regulatory Commission
NLS-139
Washington, DC 20555

Dear Char:

Enclosed are my comments on the draft Rule which is now the topic for discussion. I'm working of the 1991 Report which will be sent to you shortly. New work is also beginning on those sections of NUREG-0041 which will be unaffected by the changes in the Rule.

Best wishes for the New Year.

Sincerely,

K. Paul Steinmeyer
Health Physicist
President

enclosures

COMMENTS ON DRAFT RULE
SUBPART H--RESPIRATORY PROTECTION

Comment numbers correspond to handwritten circled numbers in the printed text of the Statements of Consideration supplied with the two-column Rule format dated October 7, 1991. Additional handwritten comments are provided in the body of the printed text.

1. I think we'd better reconsider this. NRC does not regulate the non-radiological use of respirators, and I think there will be a heck of a flap if we try to push this through. The existing written agreement between NRC and OSHA will permit (and encourage) NRC inspectors to report improper use of respirators in non-radiological situations to OSHA. I suggest that we make the point strongly and clearly in the NUREG that <u>all</u> respirator use must comply with NRC (radiological exposures) or OSHA (non-radiological exposures) rules.

2. Delete ``...at least every 12 months...'' and insert ``...periodically...'' to match newly renumbered Statement 10 (old Statement 9, second section).

3. Did <u>I</u> recommend annual fit testing? If so, I'm not in favor of it now. I believe that every 2 or 3 years is reasonable and should either be specified in the Rule or (better) left at ``periodically thereafter'' and state the 2-3 year period in the Reg Guide or NUREG. We must also add that when facial scarring, multiple tooth extractions, significant weight loss/gain occurs, fit testing should be required before continued respirator use. A good statement of these qualifiers is given in one of the appendices to the Asbestos Rule (29 CFR 1910.1001).

4. This is far too complicated. How about a simple table as below.

Respirator Inlet Covering	Minimum Acceptable Quantitative Fit Test Result
Quarter mask	100
Half mask	500
Full facepiece	1,000

The half mask category includes disposable devices, reusable devices (also called semi-disposable and maintenance-free devices), and elastomeric facepieces.

This would eliminate confusion about what constitutes a ``pass'' in a QNFT. Many times neither the fit test subject nor the fit test operator know whether a facepiece will be used as a negative pressure or positive pressure device in the field.

5. If we stick with requiring a ``validated'' protocol, we eliminate the use of irritant smoke, which is the best of the qualitative methods in my opinion. I think that we should word this to include the smoke test, but specify a protocol which will give us high degree of certainty that an effective fit test is performed.

6. I'd suggest ``...solely for protection from facial contamination. Respirators must not be used to compensate for poor radiological work practices, poor contamination control practices, or inadequate training.''

7. Good compromise wording.

From: Alan Roecklein
To: CAT1, ANT
Date: 10/31/97 12:29pm
Subject: Respirator Rulemaking

Please note that I have added the attached history of work on Subpart H to the RDB. This memo should document my recommendation that senior RES management be made aware of this history as background for the rulemaking plan.

RESPIRATORY PROTECTION'S HISTORY OF PART 20 RULEMAKING EFFORTS

1990-92	Attempt to draft changes to Rule failed in 1990-92 period because of RES workload (supporting Part 20 revision, with companion Reg. Guides). Additionally, the ANSI Z88.2 industry standard had been delayed, and was not published until late 1992. But work products included draft a rule and revised RG.
June, 93	NRR requested restarting effort, since revised Part 20 effort completed, from RES manpower perspective.
1994	RES reactivated project and same got contractor to start rework of earlier rule and RG packages.
1995	Senior staff from NMSS, OE, NRR reach consensus on draft rule package and RG late December.
March, 96	Draft package submitted to Division management for review.
July, 96	RES Division Director has problems with package -- five technical/policy issues, and one administrative concern (RES had not gotten a rulemaking plan approved by the Commission).
Aug-Sept, 96	Efforts to answer DD concerns failed, after two meetings with senior staff from Program offices and RES Branch Chief.
Oct, 96	Technically/policy-flawed rulemaking plan sent to Program offices for concurrence.
Nov, 96	Division Director-level meeting to resolve RES's problems ended in failure. RES management did agree with Program Offices positions on key issues.
Nov, 96-Jan, 97	Both NMSS and NRR Office Directors non-concur with RES rulemaking plans
Feb, 97	RES downgrades project to "On Hold" in proposed priority, and NRR nonconcurs with downgrade; RES returns project status to "Medium Priority"
Mar, 97	After informal communication of continuing concerns from Program Offices, RES management agrees to accept all Program Offices' positions but one. Signed out by RES management on March 21, 1997, the revised rulemaking plan will come over for Office concurrence with one major, unacceptable position. See item 1. on the next page for a summary of this and other RES concerns with NMSS/NRR positions.

NRR

UPDATED STATUS OF REVISED RULEMAKING PLAN FOR PART 20, SUBPART H (RESPIRATORY)

RES management has relented on two of the three problem issues (see 2. and 3. below), but issue 1. is still in the March 24, 1997 memo requesting Office concurrence of revised rulemaking plan. See 4. for concerns over the "resource estimates" and "schedule" to complete the rulemaking

1. Wants to relocate assigned protection factors (APF) in Part 20, Appendix A to a RG, in an effort to make the rule more performance-based (PB), and easier to revise (as the APFs change over time). THIS IS STILL THE ONLY HOLDOUT -- WE COULD NOT CONVINCE RES THAT APFs MUST BE ENFORCEABLE, AND RG's ARE NOT THE APPROPRIATE VEHICLE. From an inspection and enforcement standpoint, unless licensees formally commit to RGs, these guides cannot be used as requirement documents. Since power plants will not volunteer to commit to RGs, the RES proposal could lead to licensees using non-conservative APF's and our inspectors would not have recourse to an effective enforcement tool. This would be particularly troublesome when licensees use air sampling results and a APF to assign worker internal dose. If licensees have a demonstrated need for a larger APF, and no other type respirator will fill the need, the current regulations already provide a method to request for and receive a higher APF. As an aside, with the 1991 revision of Part 20, Subpart H has become a model for PB rules -- because of the built-in flexibility (and requirement to balance internal and external worker doses/risks), the use of respirators has decreased by about two orders of magnitude (with no significant increase in worker intake, but with substantial resource and some person-rem savings).

2. Believed an information notice was needed to alert industry to some reductions in APFs for certain respirators. RES HAS DROPPED THIS CONCERN, BASED ON NRR/NMSS INPUT.

3. Questioned staff's proposal to allow use of disposal respirators (assign an APF of 1 and relax some requirements), but after OGC written interpretation of staff's position, RES HAS DROPPED THEIR OPPOSITION TO THIS POSITION.

4. Since acceptable drafts already exist for both the proposed rule and the regulatory guide, NRR feels that the staff resources estimate and the schedule both are padded -- we don't feel it should take 6 months to get the proposed rule to the EDO. Additionally, 1.2 total staff FTE to complete rulemaking is an overestimate -- e.g., it is not going to take NMSS and NRR each a total of 0.2 FTE to support RES to complete rulemaking. NRR estimates about 50 hours/Office (and not 400 hours, or 0.2 FTE)