Alternative #2: seventy (70) percent of the average acquisition cost of crude oil for domestic refiners for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a).

* * * * *

2. Section 271.704 is amended by adding a new paragraph (b)(5) and by revising paragraph (c) (1) (v) to read as follows:

§ 271.704 Qualified production enhancement gas.

* * * * *

(b) *Definitions.* * * *

(5) "Imputed commodity value" means:

Alternative #1: the average cost of No. 6 fuel oil to electric utility facilities [the average retail price of No. 2 heating oil] less the average cost of transporting and distributing natural gas for the three most recent months for which data are available from the Energy Information Administration, period, as set forth in Table I of § 271.101(a).

Alternative #2: seventy (70) percent of the average acquisition cost of crude oil for domestic refiners for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a).

(c) *Qualified production enhancement gas.* For purposes of this section:

(1) Qualified production enhancement gas is natural gas: * * *

(v) The production of which [as calculated by the seller for a five-year period beginning from the month of application ("test period")], based on estimates filed pursuant to § 274.205(f)(4) will result in a projected increase in revenue which, when divided by the projected increase in units of production, does not exceed:

(A) For wells on which production enhancement work was commenced on or before February 22, 1983, 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I § 271.101(a) for the month that the application is filed;

(B) For wells on which production enhancement work was commenced after [the date of publication of this Notice in the **Federal Register**], the lesser of (*1*) the imputed commodity value for the month that the application is filed, or (*2*) 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a) for the month that the application is filed.

* * * * *

[FR Doc. 83-4484 Filed 2-16-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

Stearic Acid and Calcium Stearate; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 83-2484, beginning on page 4486, in the issue of Tuesday, February 1, 1983, make the following corrections.

1. On page 4486, third column, second paragraph of "**SUPPLEMENTARY INFORMATION**", first line, "Stearic and acid" should read "Stearic acid".

2. On page 4488, first column, fifth and eighth lines, "NCR" should read "NRC".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 486]

Fiddletown Viticultural Area

Correction

In FR Doc. 83-4071 beginning on page 6724 in the issue of Tuesday, February 15, 1983, the comment date should read March 17, 1983.

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-160]

Health Standards; Methods of Compliance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reviewing its policy relating to the use of engineering controls and respirators for air contaminants. Current OSHA standards require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace to within the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, are not yet installed or are not adequate. This policy has been criticized as being too inflexible, not cost-effective and often unnecessary for health protection.

OSHA intends to perform a careful review of the relevant issues and to consider, as a first action, the possible revision of two standards, 29 CFR 1910.1000(e) (Air Contaminants) and 29 CFR 1910.134(a)(1) (Respiratory Protection).

DATE: Comments should be submitted by June 22, 1983.

ADDRESSES: Written submissions in response to this notice should be sent to the OSHA Docket Officer, Docket No. H-160, Room S-6212, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, D.C. 20210; telephone 202-523-7894. All submissions will be available for inspection and copying in Room S-6212 at this address.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information, Room N-3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210; telephone 202-523-8148.

SUPPLEMENTARY INFORMATION: Various OSHA health standards require that employee exposure to toxic materials and harmful physical agents not exceed specified limits. In achieving compliance with these standards employers can use engineering controls, administrative controls, work practice controls and personal protective equipment. Engineering controls are modifications to plant, equipment, processes or materials to reduce an employee's exposure. Administrative controls include scheduling or rotating assignments so as to reduce individual exposures. Work practice controls can reduce exposures by modifying the way in which a task is performed. Personal protective equipment includes devices, such as respirators, that are worn by an employee for protection against a contaminant in the immediate work environment.

It has been OSHA's policy to require that employers use feasible engineering, work practice and administrative controls to prevent employee exposures above permissible limits, and that respirators may be used as an alernative

only when other methods are not adequate, are not feasible, or have not yet been installed. This policy is, in particular, stated in the OSHA Respiratory Protection Standard, 29 CFR 1910.134(a)(1), which applies to all exposures to airborne toxins, and in the Air Contaminant Standard, 29 CFR 1910.1000(e), which applies to exposures to all substances listed in Tables Z-1, Z-2, and Z-3.

The policy was inherent in national consensus standards which were adopted by OSHA in 1971 pursuant to section 6(a) rulemaking provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, *et seq.*). These standards were adopted without rulemaking proceeding under Section 6(b) of the Act with its extensive public record and public input. They are, therefore, appropriate for reconsideration.

Many other health standards also require the same preference for engineering and work practice controls over respirators. Each of these later standards, however, applies only to a specific substance and was developed on the basis of a public record developed through section 6(b) rulemaking proceedings. Although the present proceeding may develop information that would be relevant to a reexamination and revision of these substance-specific standards, OSHA has chosen not to reexamine these standards at this time.

Responses to this notice will be analyzed with respect to drafting proposed revisions to 29 CFR 1910.134(a)(1) and 29 CFR 1910.1000(e).

Reasons For This Proceeding

There are four considerations which motivate this proceeding.

The first is health protection. There is great diversity in the types and sizes of workplaces that are affected by OSHA standards. Because conditions in these workplaces are so variable, it is important to be sure that methods of compliance for each workplace are the most effective in achieving the objective of protection against the particular hazard(s) involved. Such assurance may sometimes be achieved by engineering or administrative controls, but there may be circumstances in which respirators are more effective.

A second consideration is that respirator technology and applications have experienced significant progress since the two standards under review were adopted. New methods and procedures for fit testing have been developed. The concept of protection factors, under which the effectiveness of different types of respirators can be quantified and applied to requirements for particular categories of air contaminants, has been developed. The powered air purifying respirator has been introduced. Numbers of types of respirators and filters have increased substantially, especially types and sizes of inexpensive, disposable respirators. Different size facepieces are now available, thus providing for better fit and more reliable protection.

As a result of many of these advances, the consensus of industry concerning what constitutes a reasonable, effective respirator program has changed, as demonstrated by the recent issuance of the American National Standards Institute (ANSI) Z88.2-1980 standard, entitled "Practices For Respiratory Protection," a revision of the 1969 ANSI standard. All of the foregoing represent improvements which would give respirators a more significant role in air contaminant protection than they have had before.

The third consideration is cost-effectiveness. There may be instances where the expected costs of engineering controls exceed the expected costs of respiratory protection and yet the use of respirators can clearly provide adequate employee protection. Should such instances exist, reasonable allowances for their consideration should be made.

The fourth consideration involves the scope of effect of the current OSHA policy. Places of employment affected range from those with few employees to others with many thousands. They involve exposures to toxic materials which are relatively innocuous, such as the chlorofluorocarbons, and those which are hazardous to life and health, such as parathion. A more flexible policy may be better suited to providing adequate health protection under such disparate circumstances.

For the foregoing reasons, OSHA has concluded that it is timely and appropriate to formally reexamine its policy regarding methods of compliance with the following objectives:

1. To explore whether a revised policy will allow employers to institute more cost-effective compliance strategies.

2. To investigate whether advances in respirator design, technology and applications may permit increased reliance on respirators.

3. To attempt to identify processes, operations and circumstances appropriate for particular compliance strategies.

4. To assess actual workplace conditions and employee health in industries and operations employing different compliance strategies.

Related Information

In an advance notice of proposed rulemaking concerning respiratory protection (Docket No. H-049) that was published on May 14, 1982 (47 FR 20603), OSHA sought data and views on a number of issues regarding the adequacy of respiratory protection programs and equipment. In that notice OSHA solicited general comment from the public concening the existing policy of primary reliance on engineering controls. The present notice discusses these issues in greater detail. Comments submitted in response to the May 14 notice and which address issues set forth here (i.e., answers to questions 30b and 32-34 of the May 14 notice) will be made a part of the record of this proceeding as well.

As indicated in the earlier notice, rational decisions concerning reliance on the use of respirators depend upon detailed knowledge of types and applications of respirators, the effectiveness of programs for their use and specific knowledge of their performance. Similarly, decisions concerning the use of any particular engineering control method must be based on valid information about the level of effectiveness that will result. The rulemaking on the respiratory protection standards will provide this necessary base of information with respect to respirators and respiratory protection programs. OSHA hopes to develop a similar base of data on engineering controls as a result of this notice.

In addition, each of OSHA's substance-specific health standards, as well as the Carcinogen Policy (29 CFR Part 1990), have considered the use of engineering controls and respirators in controlling exposures. To the extent practical, OSHA will abstract from the various rulemaking records of these standards information which may be relevant to this proceeding. Commentors responding to this notice may wish to make specific reference to data contained in other OSHA dockets to avoid resubmitting material already submitted by themselves or others.

Comments

Data, views, and arguments are solicited on all of the issues described below as well as on other relevant issues.

Since this policy affects a wide variety of industries, each commenter should provide as much detail as possible concerning conditions or circumstances used as a basis for the information submitted. To enable OSHA

to group and compare responses, please describe your work operation in terms of the following elements:

a. Job(s), operation(s) and process(es);

b. Toxic material(s) present;

c. Level of exposure without regard to respirators:

d. Frequency and duration of exposure;

e. Type and amount of work or physical labor, including frequency and duration;

f. Medical screening or surveillance already practiced;

g. Applicable environmental conditions—high or low temperatures, high humidity, skin irritants present, indoor or outdoor operation, etc.;

h. Description of work schedule, including breaks and rest periods;

i. Description of engineering controls already in use;

j. Size of facility, both in terms of space and in number of employees; and

k. Age of affected employees and any identifiable health conditions which would affect their ability to use respirators.

Issues

In this notice the Agency is soliciting comments from all interested parties on issues related to its policy with respect to engineering controls and respirators. These issues are presented in the form of questions to assist interested persons in developing their responses. Interested persons, of course, may wish to submit information and views on issues that are not specifically addressed by the questions or to respond only to some of the questions of special interest to themselves. All comments submitted will become part of the public record of any resulting rulemaking proceeding and will be carefully considered in the development of any proposed regulation on these matters. In the questions that follow, *the term engineering controls is intended to include the use of administrative or work practice controls as well.*

1.a. Should OSHA require the use of feasible engineering controls in preference to the use of respirators?

b. What factors indicate that engineering controls in the workplace better protect employee health?

c. What factors indicate that respirators in the workplace provide better protection of employee health?

d. On what basis could one conclude that, in some given situation, engineering controls and respirators provide a degree of protection that is equal or indeterminate?

e. What factors about a particular situation indicate that respirators will give protection at least equal to that provided by feasible engineering controls?

f. Are there reasons to prefer the use of engineering controls over the use of respirators despite analytical determinations that yield indeterminate or equal results concerning the degree of protection afforded?

2. In deciding on the use of engineering controls or respirators for a particular situation, or in general, how should OSHA or the employer take the following factors into account?

a. Number of exposed employees and number of employees with respirator fitting problems;

b. severity of effects of chronic exposure;

c. severity of effects of acute exposure;

d. length of periods of exposure;

e. frequency of periods of exposure;

f. availability and type of biological monitoring;

g. effectiveness of engineering controls;

h. effectiveness of respirators;

i. ability of the employer to measure and to ensure the adequacy of exposure control;

j. work rate (level of exertion) required of employees;

k. temperature and humidity of workplace;

l. reliability of both engineering controls and respirators; and

m. costs of engineering controls and of an effective respirator program.

n. What other factors should be considered?

3. The comparison of engineering controls and respirators can be based on the possible lapse of protection due to defects or malfunctions and on employee acceptance.

a. How are the respective probabilities of protection failure to be assessed?

b. How are the respective consequences of protection failure to be assessed?

c. How are engineering controls and respirators to be compared with respect to the degree of warning conveyed to the affected employees when protection lapses?

d. How can an employer guarantee that respirators are worn for all required periods?

e. How can employers ensure employee acceptance of respirators?

4. Is it practical to compare in general terms the overall effectiveness of engineering controls and respirators?

a. If yes, how is the comparison to be structured and evaluated?

b. If no, why not?

5.a. Can the performance of engineering controls be predicted accurately at the design stage? Explain.

b. Can the effectiveness of engineering controls be described accurately for large classes or groups of controls or operations and processes controlled? Explain.

6.a. In instituting an employee protection program based on respirators, what sources of indirect or hidden costs are there, in addition to the obvious direct costs?

b. What are these costs on a per employee basis and on a plant wide basis?

c. What economies, either direct or indirect, will be realized from the institution of such a program (other than avoidance of engineering control costs)?

7.a. In instituting an employee protection program based on engineering controls, what sources of indirect or hidden costs are there in addition to the obvious direct costs?

b. What are these costs on a per employee basis and on a plant wide basis?

8. Have there been instances where the installation of engineering controls for industrial hygiene purposes has resulted in lower overall costs due to economy of resources, increased productivity, less employee time spent on the various aspects of a respirator program, or other reasons? If yes, please describe.

9.a. In what situations should engineering controls and respirators be used in combination for the reduction of exposure to the same hazard?

b. On what basis is the relative emphasis between the two to be arrived at?

10. Should OSHA assign a preferred hierarchy to different forms of engineering controls such as:

(i) Material substitution,

(ii) Process change,

(iii) Equipment changes,

(iv) Local exhaust ventilation,

(v) General dilution ventilation,

(vi) Equipment enclosures, and

(vii) Employee enclosures?

a. Is this an appropriate priority list?

b. Is some other priority list preferable?

c. Should employers be required to justify the use of lower priority measures when higher priority measures are feasible? If so, on what basis?

11. If OSHA allows employers to choose compliance strategies, should OSHA also require each employer who relies on respirators to prepare a compliance plan justifying the use of respirators and including such items as:

(i) Exposure level of each affected employee;
(ii) Review of possible consequences of exposure, both acute and chronic;
(iii) Complete schedule of frequency and duration of exposure;
(iv) Potential for emergency exposure situations;
(v) Engineering analysis of least expensive feasible engineering controls;
(vi) Justification for reliance on respirators instead of feasible engineering controls;
(vii) Estimated costs of installing engineering controls;
(viii) Description of appropriate respiratory protection programs;
(ix) Costs of instituting respiratory protection program; and
(x) Comparison of estimated costs to other company financial data?

12. In those cases where respirators have never been relied on and engineering controls have always been used to control toxic material exposure,
a. What property of the toxic material precludes the use of respirators?
b. Is there some specific reason respirators are not used?
c. When were the engineering controls installed, what was the cost, and what percentage is this of the yearly capital budget?
d. To what exposure level are the engineering controls designed to reduce airborne contaminants?

13. If OSHA regulations permitted more extensive reliance on respirators,
a. Would existing engineering controls be shut down or removed. If yes explain reasons.
b. What additional biological monitoring or medical testing, if any, should be instituted?
c. What type of respirator would be used?
d. Would other additional personal protective equipment also be required?
e. Should some exception be made for the pulmonary diseased employee?

14. In those cases where respirators are relied on,
a. How many employees use respirators?
b. What type of respirator is used (e.g. half mask cartridge; full facepieces air line; etc)?
c. What methods are used to determine that the respirator program is effective?
d. To what extent are engineering controls also used?
e. What medical surveillance (urine tests, x-rays, physical exams, etc.) is practiced?
f. Does employee resistance limit greater use of respirators?
g. Do inherent limitations of respirators limit greater use?
h. Does the supervision of employees to ensure proper respirator use pose any difficulties?

15. a. What programmatic or personnel problems have arisen attendant to the use of respirators?
b. How many people were affected?
c. Was the problem with the respirator itself, the fitting, or with the respirator program? Explain.
d. For what specific jobs or operations can respirators not be worn? Why?

16. In those cases where the use of respirators has been partially or completely abandoned in favor of engineering controls,
a. What factor(s) were instrumental in the decision to curtail the use of respirators?
b. What proplems were there with the use of respirators? What percentage of the workers were affected?
c. Was OSHA enforcement activity involved in the decision?
d. Have the engineering controls been effective?
e. Have the engineering controls created any problems?
f. To what exposure level are the engineering controls designed to reduce airborne contaminants?
g. What engineering controls were installed; what was the cost and percentage of yearly capital costs for the facility?

17. In some instances, feasible engineering controls significantly reduce the levels of airborne toxic materials yet fail to achieve full compliance with applicable standards.
a. Should such engineering controls nevertheless be required?
b. Would such controls reduce employee exposure even where respirators are also used?

All comments in response to this notice should be sent by June 22, 1983, to the OSHA Docket Officer, Docket No. H-160, Room S-6212, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210; telephone 202-523-7894.

List of Subjects in 29 CFR Part 1910

Chemicals, Diving, Electric power, Electronic products, Fire prevention, Gases, Hazardous materials, Health records, Noise control, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655), 29 CFR 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C. this 14th day of February, 1983.

Thorne Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-4130 Filed 2-18-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-83-01]

Drawbridge Operation Regulations; Kent Island Narrows, Md.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland Department of Transportation, the Coast Guard is considering a change in the regulations that govern the operation of the Kent Island Narrows Drawbridge at Grasonville, Maryland which will change the number and times of openings during summer weekend peak traffic periods. This proposal is being made because some summer weekend draw openings have contributed to large traffic backups in the vicinity of the drawbridge. This action is intended to accomodate the needs of vehicular traffic and still provide for the reasonable needs of navigation. The Commander, Fifth Coast Guard District has authorized a public hearing to be held to receive comments on the proposed regulation.

DATES: (a) The hearing will be held on March 24, 1983 at 7:30 p.m. (b) Written comments on this proposal may be submitted on or before April 9, 1983.

ADDRESSES: (a) The location of the hearing will be at Chesapeake College, Routes 50 and 213, Queen Anne's County, Maryland. (b) Written comments on this proposal may be submitted to and will be available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of Commander (oan), Fifth Coast Guard District, Room 609, 431 Crawford Street, Portsmouth, Virginia 23705. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Portsmouth, Virginia 23705 (804) 398-6222.