



February 11, 2011

OSHA Docket Office
Docket Number OSHA-2010-0032
U.S. Department of Labor
Room N-2625
200 Constitution Avenue, NW
Washington, DC 20210

~~RE: OSHA Docket Number OSHA-2010-0032~~

Docket Officer:

The American Industrial Hygiene Association (AIHA) supports efforts of the Occupational Safety and Health Administration (OSHA) to protect worker health with administrative policies based on sound science and effective business practices. With the withdrawal of the proposed interpretation for the noise standards, 29 CFR 1910.95 and 29 CFR 1926.52, it is clear that OSHA values a public process. At this time we would like participate in that process by providing comments through the open docket.

Founded in 1939, AIHA is the premier association serving the needs of professionals involved in occupational and environmental health and safety. AIHA's 10,000 members practice industrial hygiene in industry, government, labor, academic institutions, and independent organizations. AIHA and our members are committed to protecting and improving worker health and safety, and the health, safety and well-being of everyone in our communities.

Noise is an occupational hazard that has concerned the AIHA for a long time. For many years, the requirement for feasible engineering and administrative noise controls has been enforced by the Agency only when workers have been exposed to eight-hour, time-weighted average levels of 100 dB(A) or more. This level of protection falls well below other recognized standards, such as the NIOSH criteria level, which requires controls at 85 dB(A) and only allows exposures to 100 dB(A) for 15 minutes a day.

The AIHA supports an interpretation of the term "feasible engineering or administrative controls" and a revised enforcement policy as was proposed in the October 19 notice in the federal register because they accomplish the following objectives:

1. **Embrace the concept of "Hierarchy of Controls"**. In this new policy, engineering controls and administrative controls take precedence over the use of personal protective equipment (PPE). This approach is widely established in the literature and underscores the effectiveness of engineering and administrative controls and the limitations of the use of PPE.

2. **Bring the noise standard in line with other standards.** Engineering controls are key requirements for compliance with the Permissible Exposure Limits (1910.1000(a)), the substance-specific standards, and the respiratory protection standard. With noise, the Agency currently uses a unique enforcement approach that allows for use of PPE instead of engineering controls.
3. **Place a more appropriate level of reliance on hearing conservation programs to mitigate noise exposure.** A popular assumption has been that the components of hearing conservation programs, such as hearing protection devices, audiometric testing, and training requirements, are effective at preventing hearing loss. While these elements are important, they are not as effective as engineering and administrative noise control. Even compliant hearing conservation programs can fall short of preventing occupational noise-induced hearing loss.
4. **Address noise as a risk factor in industrial accidents due to interference with communication, warning signals and situational awareness.** Noise has been implicated as a factor in workplace fatalities where workers could not hear audible warning signals such as back-up alarms. By reducing background noise levels through the use of engineering controls, the risks of such incidents are lowered.
5. **Reduce risk to additional individuals on a worksite.** The use of engineering and administrative controls (such as controlling access to a noisy area) reduces exposures and risk to all individuals at or near the worksite.
6. **Reflect a similar level of importance to the control of noise exposures that is given to control of other agents in the workplace.** One misperception is that noise exposure is less serious than chemical or biological agents. This view discounts the serious nature of hearing impairment and the dramatic impact it can have on quality of life. Only persons who have lost hearing truly understand the ramifications of this loss.
7. **Address a misperception that workers are fully responsible for their own hearing health because hearing protection is a complete solution.** OSHA law places the burden of providing a safe workplace on the employer. The absence of an engineering or administrative control requirement shifts the burden to the worker's effective use of hearing protection. Worker behavior can vary tremendously, making this an unreliable strategy.
8. **Promote Prevention through Design (PtD).** The National Academy of Engineering recently issued a report, "Technology for Quietening America" stating that the "'100 dB OSHA Directive'...effectively devastated the market for quiet machinery and equipment" and recommended that this policy be revoked. The new policy can be expected to positively influence innovation in the design of quieter work environments.

We realize that a literal interpretation of the term "feasible" as "capable of being done" will present challenges, including the following:

- a) Feasibility needs to consider the amount of time needed to implement a change. In some instances, controls may require long abatement periods.
- b) Feasible engineering and administrative controls may not always eliminate the need for hearing protection and other elements of a hearing conservation program. The Agency should acknowledge incremental reductions of noise exposure that substantially protect

the worker, and allow for implementation of hearing conservation efforts for full protection of the worker. This concept is recognized in the lead and chromium standards, which require engineering and administrative controls even if these efforts must be supplemented with PPE to be completely effective.

- c) Given the difficulties in defining feasibility and the range of feasible engineering or administrative control options that may exist for a given high noise environment, we urge OSHA to work closely with employers to arrive at sensible and equitable enforcement solutions.
- d) The Agency should tailor enforcement action to take best advantage of engineering controls whose effectiveness has already been substantiated. Recent work has demonstrated the economic feasibility of implementing some engineering controls. The Agency should find these advancements helpful in focusing expectations for feasible engineering and administrative controls.
- e) Not all solutions can be implemented simply because they are commercially available. An engineering control might even introduce additional health and safety hazards. For instance, improper acoustic installations can reduce sprinkler effectiveness or increase flame spread and smoke generation. The feasibility of engineering and administrative control applications should always be evaluated on a case-by-case basis.

In summary, AIHA supports OSHA consideration of an interpretation of the term “feasible engineering or administrative controls” and an enforcement policy as was proposed. America’s noise-exposed workers benefit greatly from efforts to reduce noise levels. In many cases, use of engineering controls is a cost-effective solution, as demonstrated through the AIHA Value Strategy. Success stories related to noise control can be found on our website (http://www.aiha.org/votp_NEW/study/casestudies.html).

AIHA is preparing additional technical information that provides more background evidence for each of the points identified in this letter and will be forwarding this information to the Agency. As the Agency moves forward, AIHA continues to offer its breadth of experience as a resource to OSHA in the development of practical policies that protect worker health. Thank you.

Respectfully,



Michael T. Brandt, DrPH, CIH, PMP
AIHA President