

Dragon, Karen E. (CDC/NIOSH/EID)

From: dbuchanan@dcvfd.org
Sent: Thursday, March 31, 2011 3:36 PM
To: NIOSH Docket Office (CDC)
Subject: Docket #221, 42CFR, Part 84

Date: March 31, 2011

To: National Institute for Occupational Safety and Health
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RE: Docket # 221
42CFR, Part 84

To whom it may concern,

I am writing on behalf of the Dale City Volunteer Fire Department in Dale City, Virginia to encourage your organization to consider changing parts of the Code of Federal Regulations, Part 84 regarding respirators, specifically SCBA, and the regulations that apply to the cylinders used with these devices.

Current regulations require that users purchase the air cylinders for SCBA from the manufacturers of the respirators based on NIOSH approvals of the respirator as a complete assembly, including the cylinder. This provides the SCBA manufacturers with a virtual monopoly on the sale of replacement cylinders which they take full advantage of by charging exorbitant prices. I could purchase a cylinder from the manufacturer for less than \$400.00 but it would, according to NIOSH, void my approval. Instead, I must buy the cylinder from my SCBA manufacturer and they charge over \$1,200.00 for the same cylinder. The cylinder has already been certified by a federal government agency, the Department of Transportation (DOT) and is assigned a DOT approval number. The only difference between the cylinder I could buy from the cylinder manufacturer and the one I must buy from the SCBA manufacturer is that the latter has the SCBA manufacturer's name and part number on it. It has not passed any additional testing or quality control and mechanically it is identical. There is no value added by the SCBA manufacturer, yet they charge us triple the price for which we could purchase the same cylinder directly from the manufacturer.

The best analogy I can think of to compare this situation would be car tires since they also fall under the purview of DOT. Imagine Ford had tires privately labeled from Goodyear and required that I buy those tires from Ford dealerships or they would void my warranty. Then the dealership charged me \$300.00 for a tire I could buy at a tire store for \$100.00 even though both tires were the same and had passed DOT's rigorous testing and certification procedures. Of course, this would affect every household in the country and we would never stand for it. It seems the fire service is a relatively small percentage of the population and our voice may not be loud enough. The NIOSH certification rules are allowing the SCBA manufacturer's to gouge the fire departments for ridiculously high profit margins and they do it behind a protective shield created by NIOSH, wittingly or unwittingly.

My automobile owner's manual directs me to change my oil at 7,000 mile intervals with an American Petroleum Institute (API) or International Lubricant Standardization and Approval Committee (ILSAC) approved oil with a Society of Automotive Engineers (SAE) viscosity rating of 5W-30. The manual also points out that replacement tires must be of a certain size and must carry a Department of Transportation (DOT) symbol certifying that they meet Federal Motor Vehicle Safety Standards. It does not mandate that I must buy genuine Toyota parts or have this work done at a Toyota dealer. My point is that there are safeguards and approvals already in place for these components and the dealer is not allowed to prevent me from having maintenance done in an open, competitive market. The NIOSH approval for SCBA

respirators could easily emulate this type of regulation specifying the standard to which the cylinder must be tested while allowing open, competitive purchasing of the cylinders. There would be no threat to the safety and well being of the end users but you would allow the fire service to save money by purchasing on the open market.

I do not know the exact number of SCBA cylinders in use in the United States, industry insiders tell me the number is between 4 million and 6 million cylinders. If I used the low end of that estimate (4 million cylinders) and every cylinder is purchased at \$800.00 over the reasonable price, those numbers total a staggering 3.2 **billion** dollars. Since cylinders have a 15 year life span, that works out to a little over 213.3 million dollars a year that the fire service is being forced to overpay because of a NIOSH regulation that delivers no additional safeguards over the DOT certification and yet provides the SCBA manufacturers with a government sponsored monopoly.

On January 25th, 20011, our president, Barack Obama, addressed the country in the State of the Union address. One of the statements Mr. Obama made was "To reduce barriers to growth and investment, I've ordered a review of government regulations. When we find rules that put an unnecessary burden on businesses, we will fix them." I believe the current NIOSH regulations put an unnecessary burden on the fire service and in support of our president's wishes NIOSH should work to fix this.

Respectfully submitted,

David K. Buchanan