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**Sent:** Friday, June 19, 2009 4:03 PM  
**To:** NIOSH Docket Office (CDC)  
**Subject:** RIN: 0920-AA10/42 CFR pt. 84  
**Attachments:** NSRC Comments.pdf

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BEFORE THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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RIN 0920-AA10:  
APPROVAL TESTS AND STANDARDS FOR  
CLOSED-CIRCUIT ESCAPE RESPIRATORS;  
NOTICE OF PROPOSED RULEMAKING

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COMMENTS OF NORFOLK SOUTHERN RAILWAY COMPANY

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Norfolk Southern Railway Company (NSRC) concurs with and incorporates by reference the comments filed by the Association of American Railroads (AAR) on the proposed standards for closed-circuit respirators.<sup>1</sup> We further note that substantial comments to this proposed rulemaking have been raised by Ocenco, a major manufacturer of respiratory protection equipment. We concur with Ocenco's position that this rulemaking should be withdrawn and reissued following further consideration of the numerous technical and other issues that have been raised, including the agency's failure to address open-circuit escape respirators in the current rulemaking.

NSRC specifically calls to the attention of DHSS that certification based on capacity as opposed to duration has the potential to create significant obstacles and undue hardship in connection with NSRC's implementation of the requirements imposed on it by the Rail Safety Improvement Act of 2008, Pub. L. No. 110-432 ("RSIA"). As described in the AAR comments, the RSIA requires that railroads "provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of a release." These devices must be mobile, wearable, self-contained and capable of being readily carried into and out of a locomotive and stored therein without creating an additional safety hazard. Weight and size are key factors in ensuring safe mobility and storage. Certification based on capacity could result in

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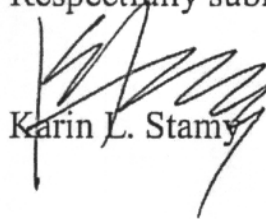
<sup>1</sup>See 73 Fed. Reg. 75,027 (Dec. 10, 2008).

requiring the use of equipment that is improperly and not safely sized for the use governed by the RSIA. Reliance on other factors, as suggested by the proposed rulemaking, such as hard eye protection, respiration rates, and oxygen consumption rates would similarly result in an increased equipment size.

If the new certification criteria (as applied to the railroad industry) required the size and weight of Capacity 1 devices (i.e., short duration CCER devices) to be increased, the railroad industry will have extreme difficulty in meeting the upcoming DOT requirement to provide CCER devices to the very large number of train and engine personnel covered by the RSIA due to the limited storage space and configuration of locomotive cabs. Locomotive cabs can be occupied by up to four employees at one time, all of whom would require immediate access to readily available and easily handled escape devices. Thus NSRC is opposed to any rule which would necessitate an increase in size and weight of currently available Capacity 1 CCER devices.

We urge DHHS to consider these rail specific factors in determining certification requirements in accordance with its rulemaking. We thank you for considering NSRC's comments.

Respectfully submitted,



Karin L. Stamy