

April 28, 2009

Jordan Barab
Acting Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Ave., NW
Washington, DC 20210

Petition to Amend Regulations for Occupational Noise Exposure

Dear Mr. Barab:

Pursuant to subsection 553(e) of the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*, and section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. § 655, the International Safety Equipment Association (ISEA) petitions the Occupational Safety and Health Administration to exercise its rulemaking authority to promulgate a standard to lower the permissible exposure limit (PEL) for occupational noise to 85 dBA from the current PEL of 90 dBA, and to lower the Exchange Rate (ER) to 3 from 5.

ISEA submits this petition because the current regulations for occupational noise exposure at 29 CFR 1910.95 and 29 CFR 1926.52 allow a substantial percentage of the nation's workforce to incur hearing loss at 90 dBA (between 23 and 32 percent, based on NIOSH research).

The general industry noise regulation was promulgated over 20 years ago, and it was based in large part on research conducted in the 1960s. In the intervening 40-plus years, significant new research findings indicate that the 90 dBA for an 8-hour time-weighted average (TWA) PEL and an ER of 5 are insufficient to protect workers from the harmful effects of workplace noise. The enclosed white paper, by the recognized hearing protection expert Alice Suter, Ph.D., reviews research findings that show significant risk of hearing loss at levels between 85 dBA and 90 dBA.

Other U.S. federal agencies have established 85 dBA as the exposure limit for noise. The National Institute for Occupational Safety and Health (NIOSH) in 1998 (publication No. 98-126) recommended an occupational noise exposure limit of 85 dBA for an 8-hour TWA. The Defense Department's Instruction 6055.12 (issued March, 2004) calls for a noise exposure limit of 85 dBA with an ER of 3. The Federal Railroad Administration, at 49 CFR 227.117(c) states that hearing protectors worn by those who have experienced a standard threshold shift must attenuate employee exposure to an 8-hour time-weighted average of 85 dBA or lower.

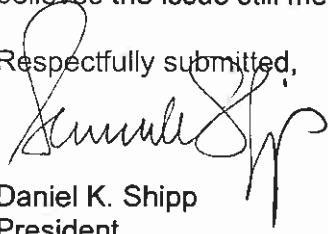
As the enclosed white paper notes, acceptance of the 3-dBA ER is so widespread that it is used almost exclusively today. In the U.S., the EPA adopted it in the early 1970s for the development of its damage-risk criteria. In addition, the Department of Defense (DoD) has endorsed the 3-dBA ER, along with the 85-dBA PEL, and recommends it for all DoD components.

The US is one of only two countries still employing the 90 dBA PEL, and one of three using an ER of 5.

It is clear that workers in certain sectors and in most other nations receive protection from noise greater than that offered by US regulations for employees in general industry, construction, shipyards, maritime and agriculture sectors.

ISEA submitted this request for regulatory action in non-petition form nearly two years ago, and other organizations and professional societies wrote to OSHA in support of the request. Occupational noise remains a significant and widespread workplace hazard, and thus ISEA believes the issue still merits OSHA's efforts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel K. Shipp". The signature is written in a cursive style with a large, prominent initial "D".

Daniel K. Shipp
President