

November 20, 1998

Teresa Moore
Personnel Director
NL Jacobsen Enterprise Inc.
2700 SE Harrison, Suite D
Milwaukie, OR 97222-3300

Dear Ms. Moore:

This is in response to your fax of October 15, 1998, requesting clarification on temporary agency requirements in relation to 1910.134, Respiratory Protection.

On job sites that require specific respirators, a respiratory protection program, including fit testing, would be required.

In answer to the rest of your questions, it is important to understand the nature of 1910.134. This rule is considered to be a performance standard, in that all of the employer's duties are specific to each workplace. Since these requirements are worksite specific, Oregon OSHA generally will not require temporary agency employers to be responsible for any of the requirements of this rule, and will expect that the host employer will address these issues with any temporary employees the same as full-time employees.

However, ORS 656.850(4) requires that all worker leasing companies assure that the client employer provides adequate training, supervision, and instruction to meet the requirements of ORS 654, under which all of Oregon OSHA's rules fall. Essentially, what this means in relation to 1910.134 is that temporary agencies will not be required to follow the provisions of this rule, but they will be required to ensure that the client employers do follow the provisions of this rule for any of their temporary employees who wear respirators while working for that employer.

If a temporary agency chooses to, they may take up some of the responsibilities instead of the client employer, but any arrangements would need to be worked out between the temporary agency and the client employer, and would need to meet the requirements of 1910.134.

Also, the effective date of the new respiratory protection rule has been extended until January 5, 1999. Until then, respiratory protection programs must meet the requirements of the former rule, but will also be evaluated under the equivalent of the new rule. Any differences between the two, such as old requirements not contained in the new rule, will be addressed with explanations of what is currently required and what will be required as of January 5, 1999.

If you have any questions or if we can be of further assistance, please contact David McLaughlin in our Technical Section at (503) 947-7457.

Sincerely,

Marilyn K. Schuster, Manager
Standards and Technical Resources Section
Oregon Occupational Safety and Health Division

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