



(Names have been removed in order to protect the privacy of the individuals submitting the complaint.)

COPY

July 21, 2005

[REDACTED] (Name removed)  
LAO Consulting, Incorporated  
1855 West Queens Court  
Crofton, Maryland 21114

Dear [REDACTED] (Name removed)

This is in response to your letter of May 26, 2005 to Jonathan L. Snare, stating that you are appealing OSHA's April 15, 2005 decision denying your information correction request. The Agency has referred your appeal to me for disposition. For the reasons that follow, I am denying your appeal.

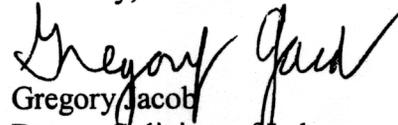
First, you have not shown that you are affected by dissemination of the information in question. Your information correction request challenges information OSHA relied on in its proposed standard for Assigned Protection Factors (APFs) in developing a proposed APF for filtering face-piece respirators. Under the Department's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by the Department of Labor*, an "affected person" may file a complaint about information the Department disseminates, and the complainant bears the burden of showing that he is affected (*Guidelines*, page 9). Neither your initial request nor your appeal explains how you are affected by dissemination of the information in the proposed rule.

Second, the issues you raise are being considered and will be resolved in the pending APF rulemaking. You ask that OSHA "reconsider" the proposed APF "that is part of the proposed rulemaking." Your information correction request repeats the same points that you have previously made in your comments to the APF Rulemaking Docket (H-049C,

Exhibits 1-41, 1-64-4, 1-135, 9-43, 9-43-1, 9-43-2, 10-9, 10-51, 16-12, 16-20-3, 18-5, 18-6, 19-7, and 19-7-1). Other members of the public have also submitted comments in that rulemaking addressing the APF for filtering face-piece respirators. The Agency's final decision will be based on the entire public record. The *Guidelines* recognize that "complaints about the quality of information in a rulemaking are ordinarily to be submitted and resolved in accordance with rulemaking procedures" (*Guidelines*, page 9). This is in accord with the Agency's "primary responsibility" to resolve rulemaking issues in accord with the Administrative Procedure Act and the statute that authorizes the rule.

Your appeal is denied. This is the Department's final decision on your information correction request.

Sincerely,



Gregory Jacob  
Deputy Solicitor of Labor