

Respiratory Protection: European Legislation and How it Relates to PORTACOUNT[®] Respirator Fit Tester in EU

Application Note RFT-004

The selection and use of respiratory protection in the European workplace is standardised via the European Norm, EN 529 published in 2005. The EU issues directives that are then adopted into national law by all the member countries of the EU. In 1992 Technical Committee CEN/TC/79 issued a report, "CR 529- Guide to the selection and use of respiratory protection devices" that was eventually incorporated into the EN 529 standard as well as several nations local legislation.

So what does the Standard cover? The main sections are:

1. Terms and Conditions
2. Classification (of RPE)
3. RPE Programme procedures
4. Risk assessment processes
5. Criteria for selecting RPE
6. Adequacy and suitability
7. Use
8. Operator instructions, information and training
9. Maintenance
10. Storage
11. Record keeping
12. Annexes

**Respirators have to
be fit and they have
to fit.**

The annexes cover types of RPE, Hazardous Atmospheres, Protection factors, Suitability Factors, Assessment and the provision of a protection passport. Annex E is of particular relevance to the PORTACOUNT Quantitative Fit Testing System. It states that a face piece (quarter, half, or full face) will not provide optimum performance if it leaks. Leakage can result from either a bad fit on the face or from faults in the face piece such as a dirty exhalation valve. The face piece provided with a respiratory protective device should fit the wearer properly and the wearer should know how to check the fit. The annex describes how to *check* the fit as well as how to *test* the fit. The principle of operation of the PORTACOUNT fit tester is described in detail as a suitable method for Fit Testing RPE. Qualitative fit testing, complete with a sensitivity test, is also described but EN 529 states that

this method is unsuitable for any mask where a high protection factor is required. In this case Quantitative Fit Testing is recommended. The standard does not specify what “high” means in this context which can leave employers vulnerable if they fail to make the right judgement.

There has been much debate of the legal standing of EN 529 (2005), but most member states have adopted the standard as promulgated by the EU. It is worthy of note that a caveat in the standard, when translated into English reads, “**Compliance with a British Standard does not of itself confer immunity from legal obligations**”. In other words, even if you do comply with *all* the requirements of this European standard, you may still be liable under the law. That must surely suggest that in a court of law; as, for example, an industrial compensation tribunal, the court will first and foremost seek guidance on what is required by the relevant national standards that exist within that country, or failing that relevant standards and codes in countries where there is reciprocity (e.g. different EU member states and the EU itself) If a defendant is unable to demonstrate compliance with a duly accepted standard then they have to demonstrate why they did something different and, at their expense of their defence, how what they did was at least as good as what is required by the standard.

The EN standard also states that “all conflicting national standards” will be withdrawn at latest by March 2006” As it normal when a new CEN is introduced, according to the CEN/CENELEC Internal Regulations all member national standards organisations are bound to implement the standard.

So what are the facts so far?

- EN 529 refers to the pyramid of control that defines what steps must be taken to reduce the hazard before RPE is provided. The fact that RPE has been provided is tacit acceptance that there is still a very real residual airborne risk present.
- EN 529 requires employers to put in place suitable respiratory protection programs.
- Such programs must include staff training in the correct use, fitting and maintenance of the RPE. This training must be done at least annually
- EN 529 refers to Quantitative fit testing as a recommended means of demonstrating the fit of a respirator and the integrity of the device.
- Quantitative Fit testing has repeatedly been shown to validate and reinforce such training leading to higher levels of protection and in some countries within CEN/CENELEC has been mandated

In brief, if an employer decides as a result of a Hazard Assessment, that RPE is to be deployed, EN 529 defines the requirements of suitable programs that in turn mandate adequate and repeat training as well as methods to ensure that the RPE is appropriate (i.e. it is fit for purpose and it fits.) Quantitative Fit Testing using the PORTACOUNT fit tester technique has been shown to validate and maximize the return on such training. This leads to higher levels of achieved protection. Failing to comply with EN standards as adopted by member states will leave employers open to liability under the law.

EN 529 specifies the procedures required to set up a suitable RPE Program. These requirements include the provision of Fit Checking and Fit Testing mechanisms.

EN 529 is not just a recommendation: if you comply with its requirements, you can expect to be protected by the law. But if you fail to comply, you may have to demonstrate why you didn't do so, especially in the case of a compensation claim and will be far more liable to successful prosecution under the Safety at Work laws in your country.

TSI Incorporated – 500 Cardigan Road, Shoreview, MN 55126 U.S.A

USA	Tel: +1 800 874 2811	E-mail: info@tsi.com	Website: www.tsi.com
UK	Tel: +44 149 4 459200	E-mail: tsiuk@tsi.com	Website: www.tsiinc.co.uk
France	Tel: +33 491 95 21 90	E-mail: tsifrance@tsi.com	Website: www.tsiinc.fr
Germany	Tel: +49 241 523030	E-mail: tsiqmbh@tsi.com	Website: www.tsiinc.de
India	Tel: +91 80 41132470	E-mail: tsi-india@tsi.com	
China	Tel: +86 10 8260 1595	E-mail: tsibeijing@tsi.com	

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