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13TH DISTRICT, ILLINOIS  
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VOCATIONAL EDUCATION  
SCIENCE, SPACE, AND  
TECHNOLOGY  
SUBCOMMITTEES:  
ENERGY RESEARCH AND DEVELOPMENT  
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SELECT COMMITTEE ON AGING

Congress of the United States  
House of Representatives

Washington, DC 20515

February 5, 1988

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RECEIVED  
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Honorable Otis Bowen  
Secretary, Department of  
Health and Human Services  
200 Independence Avenue  
Washington, DC 20201

Dear Mr. Secretary:

The National Institute for Occupational Safety and Health (NIOSH) has proposed regulations which many of my constituents say would impose heavy economic costs on general industry and the construction industry. I am writing to ask that you consider their objections.


On August 27, NIOSH proposed (42 CFR part 84, Federal Register) to limit its certification activities to respirators used in mining, thereby requiring manufacturers of respirators used in general industry and construction to "self-certify" their products. Consequently, all respirators currently in use will have to be recertified under the new process and manufacturers will be required to retest respirators which are modified.

My constituents say that the proposed regulations will impose heavy economic costs on manufacturers. The costs of developing new standards, recertification of existing respirators, and workplace testing are not minimal. In fact, it is estimated that the proposed rule would cost manufacturers up to \$700 million.

Finally, they maintain that the proposed rule could actually jeopardize worker safety. The modifications required to make general industry respirators meet mine standards could adversely affect worker safety. Employers who have workers in marginal need areas may no longer provide respirators. Moreover, workers may not be willing to use respirators which are potentially too large and designed for the mining industry.

Thank you for your attention to this matter. I look forward to your reply.

Very truly yours,



Harris W. Fawell, M.C.  
318 House Office Building

HWF/byg  
Enclosure

791633  
TRACER

**NORTH**

*Jan Hill "D.C."*  
*JAN 31*

The Hon. Harris W. Fawell  
115 W. 55th Street  
Suite 100  
Clarendon Hills, IL 60514

Dear Congressman Fawell:

The National Institute for Occupational Safety and Health (NIOSH) currently certifies respirators for use in general industry, mining and construction. On August 27, 1987, NIOSH proposed (42 CFR 84, Federal Register) regulations which will have a disastrous impact on worker safety and on our industry.

The Industrial Safety Equipment Association, of which Siebe North Inc. is a part, feels strongly that this proposal must be withdrawn.

The proposal provides no protocol, nor specific requirements, so it is impossible for us to exercise our right to comment on it in a meaningful way. This denies us due process.

While our industry recognizes the value of regulation and, by and large, has little problem with the concept of workplace testing, the fact of the matter is that the technology is not available to conform to the proposed change. This is not the way to improve a process; it will, in fact, destroy a process which works but needs tuning.

Even though 90 percent of the respirators in use today are used for non-mining (industrial and construction) purposes, the proposal requires that we test all respirators under mining conditions thereby ignoring the safety interest of the majority of workers who use respirators.

Finally, the proposed changes will cost our industry up to \$700,000,000 which will threaten the very viability of the industry as well as worker safety.

The management and employees of Siebe North Inc. trust that we can count on your support in this matter of critical interest to labor and industry.

We urge you to immediately contact Health and Human Services Secretary, Dr. Otis Bowen, to request that the proposed ruling be withdrawn.

Enclosed is a fact sheet which outlines the proposal, our objections and recommendations.

~~North Safety Equipment  
A Division of Siebe North, Inc.~~

~~2000 Plainfield Pike  
Cranston, RI 02920  
401-943-4400  
Telex: 6814009 VIA WUJ~~

I look forward to hearing from you once you have contacted Secretary Bowen as we are very anxious about the resolution of this problem.

Thanks for your assistance on this matter.

Sincerely,

*William J. Toerpe*

William J. Toerpe

26W 430 Natalie Ct.  
Wheaton, IL 60188

1/9/88

HARRIS - WOULD APPRECIATE ANY ASSISTANCE  
YOU CAN GIVE TO ME ON THIS ISSUE.

Thanks  
*Bill Toerpe*

## ISEA FACT SHEET

### (NIOSH PROPOSAL TO CHANGE CERTIFICATION PROCESS FOR RESPIRATORS)

#### I. CURRENT SITUATION:

The National Institute for Occupational Safety and Health (NIOSH) currently certifies respirators for use in general industry, mining and construction.

#### II. PROPOSED CHANGES:

On August 27, 1987, NIOSH proposed (42 CFR part 84, Federal Register) to limit its certification activities to respirators used in mining, thereby requiring manufacturers of respirators used in general industry and construction to "self-certify" their products.

Manufacturers will be required to test their own respirators in the workplace or a simulated environment. However, the proposed "workplace" stipulation requires that all testing be conducted in mining operations.

All respirators currently in use will have to be recertified under the new process and manufacturers will be required to retest any respirators which are modified in the most minor ways.

#### III. CONCERNS ABOUT PROPOSED CHANGES:

##### (1) Testing in and for the Wrong Environment:

Ninety percent of respirators used in the United States are for non-mining use. By limiting respirator testing to mining, NIOSH is ignoring the safety and health needs of the vast majority of respirator users.

##### (2) Economic Impact:

The costs of developing new standards, recertification of existing respirators and workplace testing (with no proven protocols) would create an unbearable burden on manufacturers and end users. The net effect would be a major setback to worker safety.

##### (3) Effects on Industries which Provide Respirator Protection for Workers:

It is likely that modifications required to make general industry respirators meet mine standards as well as the increased costs of the end product will adversely affect worker safety. Employers who have workers in marginal need areas may no longer provide respirators. Moreover, workers may not be willing to use respirators which are potentially too large, too unwieldy and uncomfortable.

##### (4) Requirement for Workplace Testing:

While the Industrial Safety Equipment Association (representing every major respirator manufacturer in the United States) is not in principle opposed to workplace testing, consensus standards and procedures must first be developed.

For example, it is presently impossible to test the broad array of different respirators in the workplace because the technology is not yet developed.

Even if the technology for workplace testing existed, there are not enough mines in the United States in which the tests can be performed without threatening the safety of workers.

(5) Discontinuation of NIOSH Testing:

Departing from current respirator certification practices, NIOSH will discontinue pre-certification testing of respirators and will only review test results submitted by manufacturers, validating those results.

(6) Proposed Rule is Major Ruling and not a Minor Ruling:

Implementation of the proposed rule would cost manufacturers up to \$700,000,000 making the proposed rule a "major ruling" and not a "minor ruling" as portrayed by NIOSH. This would cause hardship on manufacturers and end users and be in conflict with Executive Order 12291.

(7) No Protocol Issued with Proposed Regulation:

While NIOSH has issued its proposed standards for certification, it has not released a protocol outlining the requirements, rules, details and procedures for the required workplace testing. This omission denies respirator manufacturers due process and, furthermore, makes it impossible for them to respond to the proposal in a meaningful way because it is not complete.

IV. RECOMMENDATIONS:

- (1) The Proposed 42 CFR 84 must be withdrawn.
- (2) NIOSH should continue testing respirators as part of the certification process.
- (3) Workplace testing should not be instituted until technology is developed to make it reliable.