

Office of General Counsel

Nelson E. Schmidt
Associate Counsel

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04, DSR,

FEDERAL EXPRESS



September 8, 1987

Mr. John Moran
Director, Division of Safety Research
National Institute for Occupational Safety and Health
944 Chestnut Ridge Road
Morgantown, WV 26505

**Re: Proposed Rulemaking for Certification of Respirators,
42 CFR Part 84**

Dear Mr. Moran:

Pursuant to the notice published by the Secretary of Health and Human Services on Thursday, August 27, 1987 (52 Fed Reg 32402 et seq) setting forth proposed regulations for the certification of respirators in 42 CFR Part 84 and inviting interested parties to comment with respect to these proposed regulations, the Minnesota Mining and Manufacturing Company (3M) hereby requests that an extension of time be granted for the submission of such comments. Currently, it is proposed that these comments be received by October 26, 1987. 3M does not believe this allows adequate time for interested parties to meaningfully analyze the proposed regulations and to prepare comments and suggestions which will assist the Secretary in promulgating a fair and equitable final standard regulating the certification of respirators. As a consequence, 3M submits that the date for submitting comments be extended until April 26, 1988.

Further, this extension would allow the Secretary the opportunity to clarify several issues which are not discussed in the preamble to the rulemaking. For example, it is proposed in Sub Part V (52 Fed Reg 32435) that sodium chloride aerosol as well as an oil mist aerosol be used as tests agents for certifying the filtration efficiency of particulate respirators. Reasons supporting this change, particularly the use of an oil mist, are notably absent. Since current filtration tests do not require the use of an oil mist for non-high efficiency filters and since no explanation is given for its inclusion, it is virtually

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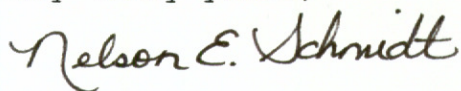
impossible to address the Secretary's position on this issue. Moreover, because there are several other areas of the proposal which are similarly unexplained, 3M suggests that the Secretary recall the proposed rulemaking and reissue it when the Secretary's justifications for the extensive revisions to the certification process are presented. This will allow interested parties to better focus their comments and more expeditiously assist in promulgating a feasible final standard.

In addition, the proposed rule provides that as part of the certification process manufacturers will be required to conduct field tests in accordance with protocols to be promulgated by NIOSH. These protocols, however, will not be available until the time of final rulemaking (52 Fed Reg 32403). Therefore, 3M submits that a reasonable period be provided for submitting comments subsequent to the time that the field test protocols are issued and that the proposed rule be recalled until the protocols are available.

Finally, 3M requests that the Secretary conduct public hearings with respect to 42 CFR Part 84 in order to allow interested parties to present their testimony and to question presentors on their views and positions on the certification of respirators. It is requested that these hearings be convened in the first quarter of 1988.

If there are any questions or comments regarding the subject matter of this request, please do not hesitate to contact the undersigned at your convenience.

Very truly yours,



Nelson E. Schmidt

NES:dlg

Number: 84-002 Date Rec'd.: 08 September 1987 Pages: 2

From: Nelson E. Schmidt, Office of General Counsel, 3M
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| <input type="checkbox"/> Consultant | <input type="checkbox"/> Professional Association |
| <input type="checkbox"/> Firefighter | <input checked="" type="checkbox"/> Respirator Manufacturer |
| <input type="checkbox"/> Government | <input type="checkbox"/> Trade Association |
| <input type="checkbox"/> Independent lab | <input type="checkbox"/> Union |
| <input type="checkbox"/> Individual | <input type="checkbox"/> University |
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Comments on:

- Extension of time for comments until 26 April 1988
- Public meeting First quarter, 1988
- Preamble

Subparts:

- | | |
|--|--|
| <input type="checkbox"/> A General provisions | <input type="checkbox"/> O Technical definitions |
| <input type="checkbox"/> B Application procedures | <input type="checkbox"/> P Respirator classification |
| <input type="checkbox"/> C Quality Assurance | <input type="checkbox"/> Q General requirements |
| <input type="checkbox"/> D Testing by applicant | <input type="checkbox"/> R Face seal leakage |
| <input type="checkbox"/> Lab testing | <input type="checkbox"/> S SCBA |
| <input checked="" type="checkbox"/> Workplace testing | <input type="checkbox"/> T SAR |
| <input type="checkbox"/> E Certification label | <input type="checkbox"/> U APR general requirements |
| <input type="checkbox"/> F Operation & Maintenance | <input checked="" type="checkbox"/> V Particulate APR |
| <input type="checkbox"/> G Modification of respirator | <input type="checkbox"/> W Gas and vapor APR cartridge |
| <input type="checkbox"/> H Withdrawal of certification | <input type="checkbox"/> X Gas and vapor APR canister |
| <input type="checkbox"/> I Appeals | <input type="checkbox"/> Y Organic gas and vapor |
| <input type="checkbox"/> J Fees | <input type="checkbox"/> Z Unlisted gas and vapor |
| <input type="checkbox"/> K Mine rescue and emergency | <input type="checkbox"/> Appendix A |

Other

workplace testing protocols

oil mist test of particulate APR

Other unexplained areas (not specified)
