

84-189

FEB 02 1988

The Honorable Paul Simon
United States Senate
Washington, D.C. 20510-6300

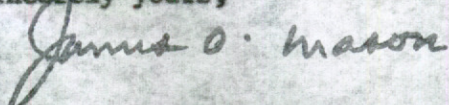
Dear Senator Simon:

Thank you for your letter of January 7 on behalf of your constituents regarding the proposed regulations governing the certification of respirators.

The current regulations under which the Mine Health and Safety Administration and the National Institute for Occupational Safety and Health test and certify respirators (30 CFR Part 11) were originally promulgated in 1972. During the last several years, there has been a growing consensus among the respirator manufacturers and user community that these requirements need revision to reflect the technical advances in the field and the increased knowledge regarding environmental factors in the workplace. Some of the steps taken to develop the proposed rule are outlined in the enclosed preamble (52 FR 32402).

We are, of course, anxious to receive comments on both the technical and policy elements of this proposed rule. Toward that end, in October we extended our original comment period and announced two public hearings (52 FR 37639). The first took place in San Francisco on January 20, 1988, and the second was January 27-28, 1988, in Washington, D.C. We look forward to hearing from all parties concerned, and I assure you that all comments received will be placed into the record and will be carefully considered in any final rulemaking decision.

Sincerely yours,



James O. Mason, M.D., Dr.P.H.
Assistant Surgeon General
Director

Enclosure

Page 2 - The Honorable Paul Simon

cc:

OD

NIOSH

NIOSH/W

NIOSH/Docket Office

FMO

CDCW

ES/PHS

ASL/OS

CLO/OS

CDC:NIOSH:LSparks

PHS Tracer No. T91255; CDC ID #D41193; NIOSH #3183; Doc. 3160C

Prepared by Larry Sparks, 3061

Contact Diane Porter, 3061

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United States Senate

COMMITTEE ON LABOR AND
HUMAN RESOURCES
WASHINGTON, DC 20510-6300

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ASH

January 7, 1988

Ronald Docksai
Assistant Secretary for Legislation
Room 416G
Hubert Humphrey Building
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Mr. Docksai:

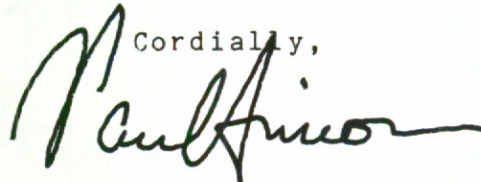
I have enclosed copies of letters from a number of my
constituents regarding a proposed change in the standard for
certifying respirators at NIOSH.

I hope that you will be able to answer their specific concerns
when the agency has made its decisions in that regard.

Thank you for your assistance.

My best wishes.

Cordially,



Paul Simon
United States Senator

PS jaw

CDC ID: B-41193
DATE: JAN 28 1988
Correspondence Unit, OD
Ext. 3522

(5 names)

T91255
TO ACER

back
December 21, 1987

Senator Paul Simon
462 Senate Dirksen Building
Washington DC 20515

3M Chicago Sales Center
908 North Elm Street
Hingdale, IL 60521

Dear Senator Simon:

The National Institute for Occupational Health and Safety (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 3M Company of St. Paul, Minnesota is a part, feels strongly that this proposal must be withdrawn.

The proposal provides no prototype, 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 ninety 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 3M Company 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.

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

Thank you for your assistance on this matter.

Sincerely,

Heldon Burchill

BB
#1E

6707 N. Sheridan Rd., Apt.

Chicago, IL

December 21, 1987 60626

The Honorable Paul Simon
SD 462 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Simon:

I am writing to express my concern and seek your help with regard to proposed changes in certifying respirators for use in general industry, mining and construction by the National Institute for Occupational Safety and Health (NIOSH).

I am employed by the Safety Products Division of American Optical Corporation and take pride in the safety and protection provided to workers in industry through the manufacture and distribution of our products.

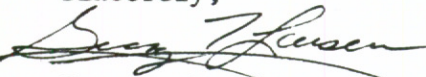
It has come to my attention that the new proposals issued in August by NIOSH (42 CFR part 84, Federal Register) will severely limit it's certification of respirators to a "mining workplace" environment only. This proposal would require manufacturers of respirators used in general industry and construction, such as American Optical, to essentially do their own certifying. All respirators currently in use will have to be re-certified under the new process and manufacturers will be required to re-test any respirators which are modified in the most minor way.

It is my understanding that 90% of the respirators in use today are used for non-mining purposes, and this proposal requires that manufacturers test all respirators under mining conditions. This would ignore the safety interests of the majority of workers who use respirators in industry and construction.

The costs, the modifications, the requirements for workplace testing will place a tremendous burden, some \$700,000,000 upon manufacturers and will threaten worker safety.

May I count on you to contact Dr. Otis Bowen, Health and Human Services Secretary, to request withdrawal of this proposed ruling? Please let me know as soon as you have contacted Secretary Bowen as to his response.

Sincerely,



Gregory T. Larson

1609 Claremont Drive
Darien, IL 60559
December 21, 1987

The Honorable Paul Simon
SD 462 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Simon:

I am writing to express my concern and seek your help with regard to proposed changes in certifying respirators for use in general industry, mining and construction by the National Institute for Occupational Safety and Health (NIOSH).

I am employed by the Safety Products Division of American Optical Corporation and take pride in the safety and protection provided to workers in industry through the manufacture and distribution of our products.

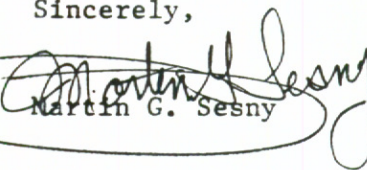
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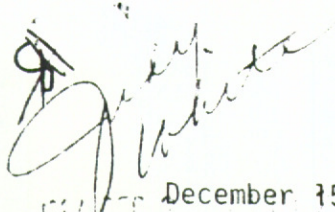
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The costs, the modifications, the requirements for workplace testing will place a tremendous burden, some \$700,000,000 upon manufacturers and will threaten worker safety.

May I count on you to contact Dr. Otis Bowen, Health and Human Services Secretary, to request withdrawal of this proposed ruling? Please let me know as soon as you have contacted Secretary Bowen as to his response.

Sincerely,


Martin G. Sesny


December 15, 1987

Senator Paul Simon
462 Senate Dirksen Building
Washington, D. C. 20515

3M Chicago Sales Center
908 North Elm Street
Hinsdale, IL 60521

Dear Senator Simon:

The National Institute for Occupational Health and Safety (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 3M Company of St. Paul, Minnesota is a part, feels strongly that this proposal must be withdrawn.

The proposal provides no prototype, 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 ninety 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 3M Company 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.

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

Thank you for your assistance on this matter.

Sincerely,



Thurde

Sellstrom MANUFACTURING CO.

EYE, EAR, FACE AND HEAD PROTECTIVE EQUIPMENT

Sellstrom Industrial Park P.O. Box 355 Palatine, Illinois 60078-0355
1-800 323-7402 In Illinois 312-358-2000 Cable: Gogle Palatine



December 17, 1987

Seantor Paul Simon
SD-462 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Simon:

The National Institute for Occupational Health and Safety (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 Sellstrom Manufacturing Co., Palatine, Illinois, 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 per cent 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 Sellstrom Manufacturing Co., Palatine, Illinois, trust that we can count on your support in this matter of critical interest to Illinois, labor and industry.

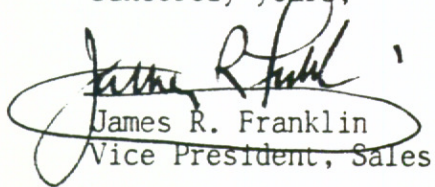
sellstrom MANUFACTURING CO.

Page 2

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.

Sincerely yours,


James R. Franklin
Vice President, Sales

JRF:jo
Enc.

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 re-certified under the new process and manufacturers will be required to re-test any respirators which are modified in the most minor ways.

III. Concerns about Proposed Changes:

(1) Testing in and for the Wrong Environment:

Ninety per-cent 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, re-certification 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 set-back 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 effect 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 principal 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) "Self-Certification" is a misnomer:

Given the fact that NIOSH will review tests results, reserve the right to re-test at its discretion and continue to have the ultimate say, manufacturers will, in effect, not be certifying. Instead, they will be testing their products for NIOSH.

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

Implementation of the proposed rule would cost manufacturers up to \$700,000,000 annually 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 it's 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 CRF 84 must be withdrawn.
2. If NIOSH is to no longer certify respirators for general industry and construction, resources must be committed to developing a consensus standard for all respirator certification for use in all industrial applications.
3. This consensus standard must then be certified through a non-governmental third party.