DEPARTMENT OF HEALTH AND HUMAN SERVICES

FEB 22 1988

84-253

The Honorable Tom Harkin
United States Senate
Washington, D.C. 20510

Dear Senator Harkin:

Thank you for your letter of January 26 to Secretary Bowen on behalf of Ms. Jan A. Brockmeyer 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 in Washington, D.C., on January 27-28, 1988.

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,

/\ Robert E. Windom
Robert E. Windom, M.D.
Assistant Secretary for Health

Enclosure
Page 2 - The Honorable Tom Harkin

cc:
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CDC Official File (Return to CDC, Atlanta).

CDC: JOMason; dc 02/10/88 FTS 236-3291 (M/02/10)
OS No. 8802040042; Tracer 91557; CDC ID D41356; Doc 3538B
Part II

Department of Health and Human Services

Public Health Service

42 CFR Part 84
National Institute for Occupational Safety and Health; Revision of Tests and Requirements for Certification of Permissibility of Respiratory Protective Devices Used in Mines and Mining; Notice of Proposed Rulemaking
United States Senate
WASHINGTON, D.C. 20510

January 26, 1988

Secretary Otis Bowen, MD
Department of Health
and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Bowen:

Enclosed is a letter from one of my constituents who has a concern over the administration's policy on proposed regulations which would limit the certification respirators. I respectfully ask you to review the administration's policy on this issue and send me a clarification so that I might be able to respond to my constituent's questions.

Thank you in advance for your assistance on this matter.

Sincerely,

Tom Harkin
United States Senator

TH/kb
Enclosure
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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As/ Robert E. Windom

Robert E. Windom, M.D.
Assistant Secretary for Health

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Thursday
August 27, 1987

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Tom Harkin
United States Senator

TH/kb
Enclosure
The Honorable Thomas Harkin
Senate Office Building
Washington, DC 20510

Dear Senator Harkin:

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 its 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 rule? Please let me know as soon as you have contacted Secretary Bowen as to his response.

Sincerely,

Jan A. Brockmeyer