

84-231

MAR 21 1988

The Honorable Robert C. Byrd  
United States Senate  
Washington, D.C. 20510-6025

Dear Senator Byrd:

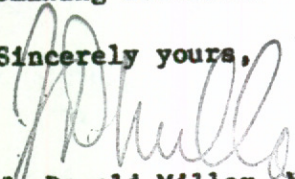
Thank you for your letter on behalf of Mr. Robert Kness regarding the proposed regulations governing the certification of respirators.

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 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. Enclosed is a copy of the opening statement from those hearings which clarifies many of the misunderstandings of this regulation. We have also extended the comment period until March 28, 1988 (53 FR 5595).

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,



J. Donald Millar, M.D.  
Assistant Surgeon General  
Director

Enclosure

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cc:

NIOSH/W

NIOSH/Docket Office

CDC:NIOSH:LSparks

NIOSH #3205

Doc. 3195C

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## United States Senate

COMMITTEE ON APPROPRIATIONS  
WASHINGTON, DC 20510-6025

January 29, 1988

Dr. J. Donald Millar  
National Institute for Occupational  
Safety and Health  
Building 1, Room 3007  
1600 Clifton Road, N.E.  
Atlanta, Georgia 30333

Dear Dr. Millar:

I am writing on behalf of a constituent company, Industrial Safety Supply (ISS) of Dunbar, West Virginia. ISS is concerned over NIOSH's proposed regulations on the certification of respirators for use in general industry (46 CFR 84).

I am enclosing a copy of the correspondence from ISS for appropriate consideration, and I respectfully request a response on which I can base a reply to ISS.

Thanking you in advance of your consideration of this request, I am

Sincerely yours,

  
Robert C. Byrd

RCB:maw

# ISS

2045 Wilson Street

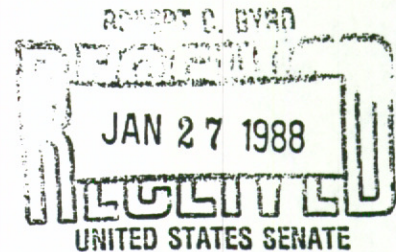
Dunbar, WV 25064

(304) 744-4751

## INDUSTRIAL SAFETY SUPPLY

JANUARY 18, 1988

*mw*



SENATOR ROBERT C. BYRD  
SH 311 HART SENATE OFFICE BUILDING  
WASHINGTON, D.C. 20510

DEAR SENATOR :

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 WORKERS SAFETY AND ON OUR INDUSTRY.

THE SAFETY EQUIPMENT DISTRIBUTORS ASSOCIATION, OF WHICH INDUSTRIAL SAFETY SUPPLY INC. OF DUNBAR WEST VIRGINIA IS A PART, FEELS STRONGLY THAT THIS PROPOSAL MUST BE WITHDRAWN.

THE PROPOSAL PROVIDES NO PROTOCOLS, NON 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 INDUSTRIAL SAFETY SUPPLY INC., TRUST THAT WE CAN COUNT ON YOUR SUPPORT IN THIS MATTER OF CRITICAL INTEREST TO WEST VIRGINIA 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 OUTLINE THE PROPOSAL, OUR  
OBJECTIONS AND RECOMMENDATIONS.

THANK YOU IN ADVANCE FOR YOUR ASSISTANCE ON THIS MATTER  
AND I LOOK FORWARD TO HEARING FROM YOUR ONCE YOU HAVE CONTACTED  
SECRETARY BOWEN AS WE ARE VERY ANXIOUS ABOUT THE RESOLUTION OF  
PROBLEM.

SINCERELY,

A handwritten signature in cursive script, appearing to read "Robert E. Kness".

ROBERT E. KNESS  
PRESIDENT