

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Docket

FEB 3 1988

84-190

The Honorable Fred Upton  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Upton:

Thank you for your letter of January 7 to Secretary Bowen 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,

/s/ Robert E. Windom

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

Enclosure

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

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cc:  
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CCU/OS  
ASL/OS  
CLO/OS  
H Official File  
CDC Official File (Return to CDC, Atlanta)  
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ADMINISTRATIVE ASSISTANT

# Congress of the United States

## House of Representatives

FRED UPTON  
4TH DISTRICT, MICHIGAN  
January 7, 1988

1607 LONGWORTH OFFICE BUILDING  
WASHINGTON DC 20515  
(202) 225-3761

225 WEST 30TH STREET  
P.O. BOX 1917  
HOLLAND MI 49422-1917  
(616) 394-4500

108 PORTAGE AVENUE  
P.O. BOX 425  
THREE RIVERS, MI 49093  
(616) 273-9122

421 MAIN STREET  
ST. JOSEPH MI 49085  
(616) 982-1985

Honorable Otis R. Bowen  
Secretary of Health & Human Services  
Department of Health & Human Services  
200 Independence Ave., S.W.  
Washington, D.C. 20201

Dear Dr. Bowen,


It has recently come to my attention that the National Institute for Occupational Health and Safety has proposed new regulations (42 CFR 84, Federal Register) regarding respirators for use in general industry, mining, and construction.

A number of constituents of mine from Buchanan, Michigan are concerned with these proposed regulations and have contacted my office (see enclosed letter). My Constituents believe that this new regulation would cause great harm to their industry. In addition, because of the manner in which this regulation was proposed, my constituents believe they were denied the opportunity to comment on the proposed changes before they were introduced. I am concerned with these allegations.

Please look into this matter and address your response to my office.

Thank you in advance for your assistance on this matter. If I can provide any further information on this situation, please feel free to contact me. Until then, I remain

Very truly yours,

  
Fred Upton  
Member of Congress

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Enclosure

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Honorable Fred Upton  
1607 Longworth House Office Bldg.  
Washington, D.C. 20515

Dear Representative Upton:

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 Pro-Tech Respirators, Inc. of Buchanan, Michigan 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 Pro-Tech Respirators, Inc. trust that we can count on your support in this matter of critical interest to Michigan 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,

*Mike Mason*