

MAR 28 1988

The Honorable Frank R. Lautenberg
United States Senate
Washington, D.C. 20510

DOCKET OFFICE COPY

Dear Senator Lautenberg:

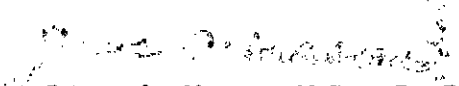
Thank you for your letter of March 8 on behalf of your constituents regarding the proposed regulations governing the certification of respirators.

The current regulations under which the Mine Safety and Health 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,


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

Enclosures

Page 2 - The Honorable Frank R. Lautenberg

cc: ..

OD

NIOSH

✓ NIOSH/W

NIOSH/Docket Office

FMO

CDCW

ES/PHS

ASL/OS

CLO/OS

CDC:NIOSH:LSparks

PHS Tracer No. T92827; CDC ID #D42075; NIOSH #3342

Prepared by Larry Sparks, 3061

Contact Diane Porter, 3061

FRANK R. LAUTENBERG
NEW JERSEY

COMMITTEE ON APPROPRIATIONS

COMMITTEE ON ENVIRONMENT AND
PUBLIC WORKS

COMMITTEE ON THE BUDGET

United States Senate

WASHINGTON, D.C. 20510

SENATE OFFICE BUILDING:
WASHINGTON, D.C. 20510
(202)224-4744

GATEWAY ONE
GATEWAY CENTER
NEWARK, NEW JERSEY 07102
(201)645-3030

PARKADE BUILDING
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CAMDEN, NEW JERSEY 08102
(609)757-5353

COURT PLAZA NORTH
25 MAIN STREET
HACKENSACK, NEW JERSEY 07601
(201)342-0936

13
March 8, 1988

ASH

Department of Health and Human Service
Congressional Liaison Office
Independence Avenue, S.W.
Room 435-G
Washington, D.C. 20201

DOCKET OFFICE COPY

Dear Director:

I am enclosing a copy of a letter I have received from Mr. George Johnston.

Please provide any information you might have regarding this issue in order that I might be able to respond to my constituent's inquiry. Please return the enclosed correspondence with your report and mark the envelope to the attention of Tom Dosh.

With best wishes,

Sincerely,

Frank R. Lautenberg

FRL:tdb
Enclosure

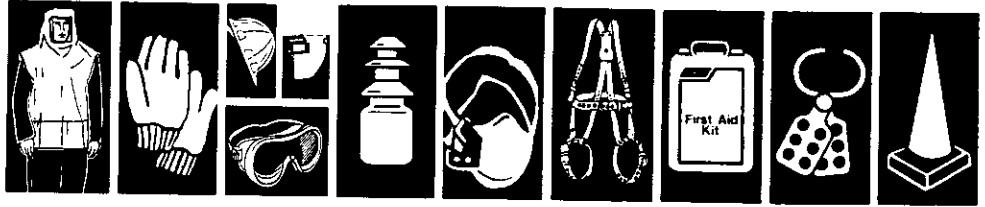
ODC ID: D 42075
DATE: MAR 25 1988
Correspondence Unit, OD
Ext. 3322

792827
TRACER

BELMAR

Safety Equipment Inc.

P.O. Box 100
Barrington, NJ 08007-0100



(609) 547-2122

January, 1988

Senator Frank Lautenberg
SH717 Hart Senate Office Building
Washington, D.C. 20510

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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 worker safety and on our industry.

The Safety Equipment Distributor's Association of which Belmar Safety Equipment of Barrington, New Jersey is a part, feels strongly that this proposal must be withdrawn. The workers of the United States that use respirators are better provided for under the current NIOSH certification procedures applicable to respirators. The people working in non-mining operations are just as important as miners. I strongly believe that NIOSH proposal 42CFR84 of the Federal Register discriminates against 90% of the workers using respirators today.

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 Belmar Safety Equipment trust that we can count on your support in this matter of critical interest to New Jersey, (Camden County district) 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 objectives and recommendations.

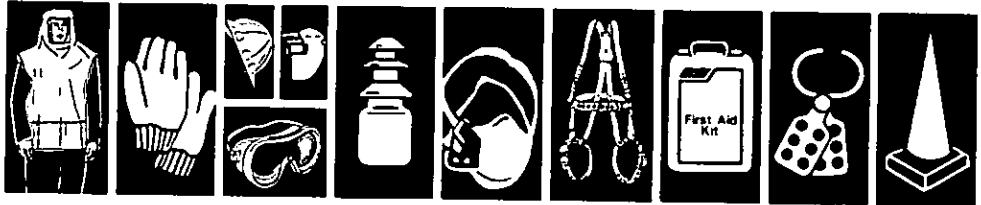
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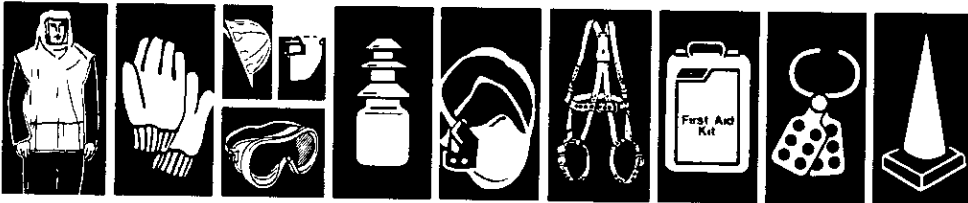
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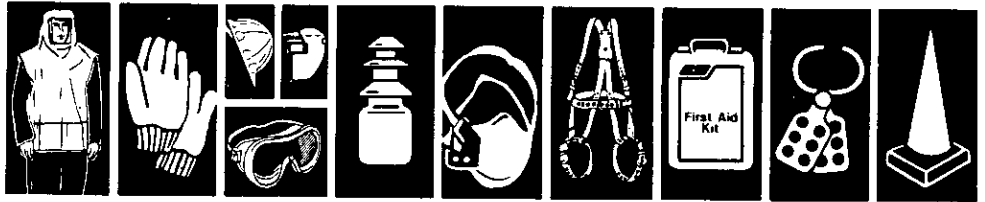
Sincerely,

Camden, New Jersey

BELMAR

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P.O. Box 100
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Sincerely,

John D. Jerry
Barrington, N.J.

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Robert J. O'Neil
Dept. Ford

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Sincerely,

Debbie Clark

Woodbury, N.J.

BELMAR

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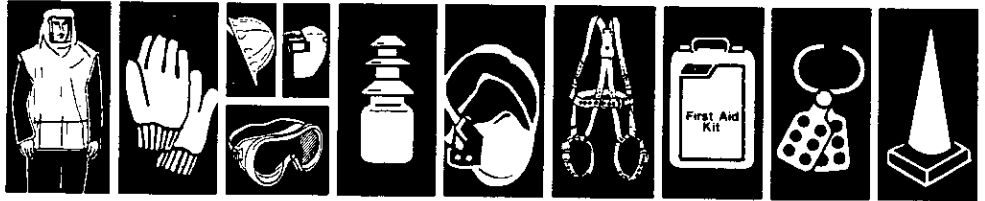
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Andrew C. Ramis
Barrington N.J.

BELMAR

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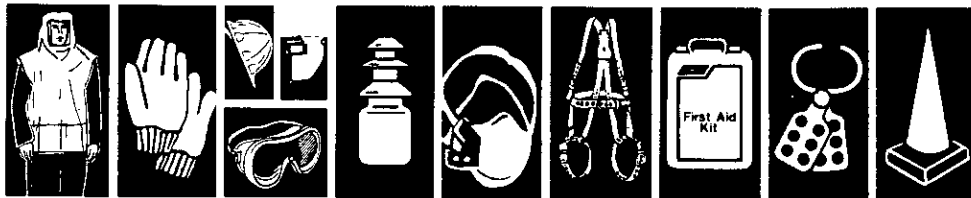
Sincerely,

Charles Baird
Barrington, N.J.

BELMAR

Safety Equipment Inc.

P.O. Box 100
Barrington, NJ 08007-0100



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Sincerely,

Kathy Cervino
Barrington, NJ

BELMAR

Safety Equipment Inc.

P.O. Box 100
Barrington, NJ 08007-0100



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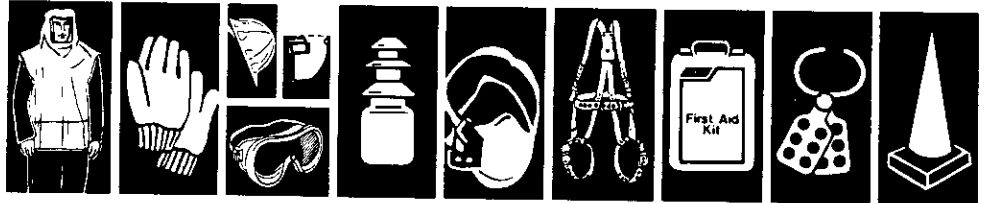
Sincerely,

Robert P. McKee Jr.
Haddon Nts, N. J.

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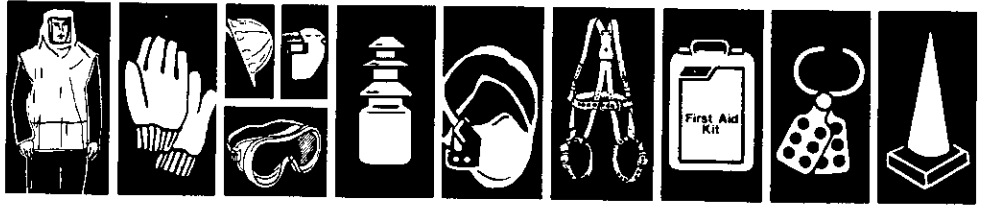
Sincerely,

Marlton, New Jersey

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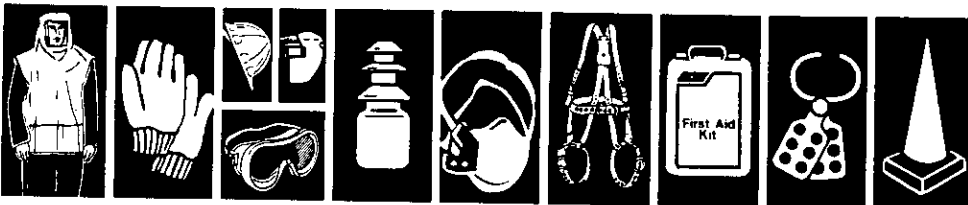
Sincerely,

Joe Mulgrew
BLACKWOOD H

BELMAR

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P.O. Box 100
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John T. Alvin

Barrington, N.J.
#08007

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Enclosed is a fact sheet which outlines the proposal, our objectives and recommendations.

Thank you in advance for your assistance on this matter and I look forward to hearing from you once you have contacted Secretary Bowen as we are very anxious about the resolution of this problem.

Sincerely,

BELMAR

Safety Equipment Inc.

P.O. Box 100
Barrington, NJ 08007-0100



(609) 547-2122

January, 1988

Senator Frank Lautenberg
SH717 Hart Senate Office Building
Washington, D.C. 20510

DOCKET OFFICE COPY

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 worker safety and on our industry.

The Safety Equipment Distributor's Association of which Belmar Safety Equipment of Barrington, New Jersey is a part, feels strongly that this proposal must be withdrawn. The workers of the United States that use respirators are better provided for under the current NIOSH certification procedures applicable to respirators. The people working in non-mining operations are just as important as miners. I strongly believe that NIOSH proposal 42CFR84 of the Federal Register discriminates against 90% of the workers using respirators today.

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 Belmar Safety Equipment trust that we can count on your support in this matter of critical interest to New Jersey, (Camden County district) 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 objectives and recommendations.

Thank you in advance for your assistance on this matter and I look forward to hearing from you once you have contacted Secretary Bowen as we are very anxious about the resolution of this problem.

Sincerely,

Anthony J. Santoglia
Princeton, NJ

DOCKET OFFICE COPY

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:

*Can certify mine
by government - this (1987)*

*adding costs / & liability EXPOS
to NIOSH*

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.