

84-210

3/16/88

The Honorable Pete Wilson  
United States Senate  
Washington, D.C. 20510

Dear Senator Wilson:

Thank you for your letter of February 25 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 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.

A copy of this correspondence is being mailed to your Washington Office.

Sincerely yours,

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

Enclosures

Page 2 - The Honorable Pete Wilson

cc:

OD

NIOSH

NIOSH/V

NIOSH/Docket Office

FHO

CDCW

ES/PHS

ASL/OS

CLO/OS

CDC:NIOSH:LSparks

PHS Tracer No. T92230; CDC ID #D41802; NIOSH #3286

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PETE WILSON  
CALIFORNIA

COMMITTEES:  
ARMED SERVICES  
AGRICULTURE, NUTRITION, AND FORESTRY  
COMMERCE, SCIENCE AND TRANSPORTATION  
SPECIAL COMMITTEE ON AGING  
JOINT ECONOMIC COMMITTEE

*12/1*

# United States Senate

WASHINGTON, D.C. 20510

February 25, 1988

*RSH*

Congressional Liaison  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Director:

I have enclosed a copy of a letter which I received from concerned citizens of California regarding NIOSH's proposed regulation (42 CFR 84, Federal Register) I would appreciate it very much if you would bring this letter to the attention of the appropriate individuals within your agency for consideration and respond to me at your earliest convenience.

Please return with your reply the correspondence which I have enclosed.

Thank you very much for your assistance in this matter.

Sincerely,

*Pete Wilson*

PETE WILSON

PW:dw  
Enclosure

CDC ID: D	<u>41802</u>
DATE:	<u>MAR - 8 1988</u>
Correspondence Unit, OD	
Ext. 3522	

(2 names)

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## E.D. Bullard Company

The Human Side of Safety. Since 1898.

December 17, 1987

The Honorable Pete Wilson  
United States Senator  
SH 720 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Wilson:

We are writing to enlist your support for the withdrawal of a proposed regulation which we believe will have a disastrous impact on worker health and safety and on the industry which manufactures personal protective equipment for workers.

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) new regulations which, if enacted, will dramatically increase the costs of developing, testing and certifying respirators. These increased costs will, in turn, be borne by employers and ultimately by all consumers. In addition to the costs associated with this proposed rulemaking, the procedures suggested by NIOSH may serve to reduce, rather than to improve worker respiratory protection.

E.D. Bullard Company is a California-based manufacturer of personal protective equipment for workers and consumers. Bullard designs, produces and manufactures respiratory protection equipment of the type covered by the proposed NIOSH regulations. Bullard and the Industrial Safety Equipment Association, of which we are a member, feel strongly that this proposal must be withdrawn.

The NIOSH proposal entails a completely new approach to respirator design and workplace testing of respirators, yet it contains no protocols nor specific test requirements. It is therefore impossible for us to exercise our right to comment on it in a meaningful way. We believe 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 interests of the majority of workers who use respirators.

The Honorable Pete Wilson  
page 2  
December 17, 1987

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 E.D. Bullard Company trust that we can count on your support in this matter of critical interest to California 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,



Edward D. Bullard  
President

EDB/edw

Enclosure

cc: F.E. Wilcher  
ISEA

W.H. Pearson III  
17020 Sunset Blvd #19  
Pacific Palisades, CA 90272

Dear Senator Wilson:

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.

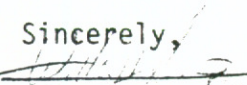
Finally, the proposed changes will cost our industry up to \$700,000,000, which will threaten the very viability of the industry, as well as worker safety.

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,

  
William H. Pearson, III  
12-21-87