

84-217  
MAR 1 8 1988

The Honorable J. Bennett Johnston  
United States Senate  
Washington, D.C. 20510

Dear Senator Johnston:

Thank you for your letter of February 10 on behalf of Ms. Betty Bowman 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,

*James O. Mason*

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

Enclosures

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cc:  
OD  
NIOSH  
NIOSH/W  
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FMO  
CDCW  
ES/PHS  
ASL/OS  
CLO/OS

CDC:NIOSH:LSparks  
PHS Tracer No. T92539; CDC ID #D41920; NIOSH #3296  
Prepared by Larry Sparks, 3061  
Contact Diane Porter, 3061

J. BENNETT JOHNSTON  
LOUISIANA

United States Senate

WASHINGTON, DC 20510

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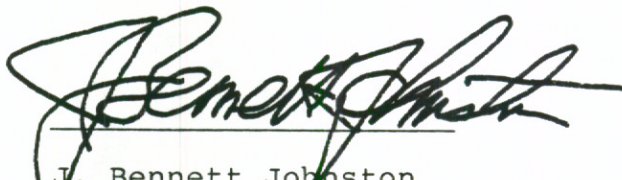
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February 10, 1988

Respectfully referred to:

Mr. Ronald Docksai  
Assistant Secretary for Legislation  
Room 416G  
Hubert Humphrey Building  
Department of Health and Human  
Services  
200 Independence Avenue, SW  
Washington, DC 20201

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with the return of the enclosure, will be appreciated by March 10, 1988.



J. Bennett Johnston  
United States Senator

JBj:dsa

CDC ID: D 41920
DATE: MAR 15 1988
Correspondence Unit, OD
Int. Div.

J. BENNETT JOHNSTON  
LOUISIANA

## United States Senate

WASHINGTON, DC 20510

February 10, 1988

Ms. Betty Bowman  
C & W Fire Safety, Inc.  
Post Office Box 6215  
Bossier City, Louisiana 71010

Dear Ms. Bowman:

Thank you very much for letting me hear from you concerning the National Institute for Occupational Health and Safety (NIOSH) proposed regulations relating to respirators.

I will certainly be pleased to look into this matter for you, and have taken the liberty of contacting the appropriate officials here in Washington to request a report. I will be back in touch with you just as soon as I have any additional information.

I appreciate your bringing this to my attention, and send every good wish.

Sincerely,

J. Bennett Johnston  
United States Senator

JBj:dsa

# C&W FIRE and SAFETY, INC.

WHERE SAFETY EXCELS

P. O. Box 6215  
Bossier City, Louisiana 71010  
Phone: 747-1463

January 12, 1988

Senator Bennett J. Johnston  
SH136 Hart Senate Office Building  
Washington, D.C. 20510

Dear Honorable Senator Bennett J. Johnston,

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 Distributors Association, of which C & W FIRE AND SAFETY, INC. of Bossier City, Louisiana is a part, feels strongly that this proposal must be withdrawn.

The proposal provides no protocols, 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 C & W FIRE AND SAFETY, INC., trust that we can count on your support in this matter of critical interest to Louisiana, to the Fourth District, and 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.

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

C & W FIRE AND SAFETY, INC.

*Butty Bowen*

encl.

SEDA

**Talking Points for Follow-up Calls to Senators/Representatives:**

The purpose of the follow-up call is to (1) remind the Sen/Rep of the urgency of the issue and the need to contact Secretary Bowen sooner rather than later (2) to provide more information which the Sen/Rep may think he/she needs before contacting the Secretary and (3) to get feedback on whether or not we will be able to rely on the Sen/Rep to make the contact with the Secretary before he/she leaves Washington for the holiday season.

The following are points which you may want to cover during your conversations with your Senators/Representatives or their staff.

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NIOSH has issued, and OMB approved, a regulation which is an embarrassment to the Federal Government.

1. They have issued a proposed rule and asked for comments without providing the specifics upon which interested parties are supposed to comment.
2. NIOSH and OMB say that the proposed ruling is minor even though it could cost the respirator industry \$700,000,000. (They base their figures on a bogus study.)
3. NIOSH is calling for self-certification when in fact they are essentially only asking for industry to test their products leaving with NIOSH the final say in certification.
4. The NIOSH proposal requires workplace testing which is not feasible since the technology nor the validated protocols and procedures don't exist.
5. While 90% of the respirators manufactured in the U.S. are for non-mining uses, NIOSH is requiring that manufacturers test all respirators under mining conditions.
6. While NIOSH, OMB and industry officials are interested in worker safety, the proposed changes will adversely effect progress which has been made in the past.
7. NIOSH should withdraw the proposal.

8. A consensus standard must be developed.

9. A third party should be charged with implementing the consensus standard if NIOSH continues to abdicate its responsibility.