DEPARTMENT OF HEALTH AND HUMAN SERVICES

FEB 2 2 1988

84-254

The Honorable John P. Murtha House of Representatives Washington, D.C. 20515

Dear Mr. Murtha:

Thank you for your letter of February 3 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,

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

Enclosure

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Congress of the United States House of Representatives

Washington, D.C. 20515

February 3, 1988

The Honorable Otis R. Bowen, MD Secretary
Department of Health and Human Services
Hubert Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Bowen:

I have been contacted by several constitutents who have brought to my attention the National Institute for Occupational Safety and Health has proposed to modify the process by which respirators are certified. My constitutents have several concerns about 42 CRF 84 which is reported in the August 27, 1987 Federal Register.

I am not an expert in the area of respirator certification, however, am extremely interested in worker safety and the proposal's impact on Pennsylvania labor and industry. I would appreciate it if you could carefully review and analyse my constituent's complaints of the proposal.

First of all I was informed implementation of the proposed rule would cost the industry up to \$700,000,000 annually. According to Executive Order 12291 a "minor rulemaking" must be limited to an impact of \$100,000,000 or less. Also, this could create a substantial hardship on manufacturers and end users without necessarily providing any meaningful improvement.

I understand the proposal requires testing in a mining or simulated mining environment even though over ninety percent of the respirators used today are in an industrial or construction environment. I would not like to see the safety and health needs of the vast majority of users ignored.

Another concern of my constituents about the proposed regulations is the lack of protocol on how testing should be done. The companies involved feel it would be impossible to exercise their right to comment on the procedure in a meaningful way in advance.

I hope you would carefully review these issues and give them your most serious consideration. Do not hesitate to contact me if you wish to discuss this further or if you have any questions.

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'Honorable Otis R. Bowen February 3, 1988 Page Two

I look forward to hearing from you on this matter which is of utmost concern to me and several of my constituents.

Sincerely,

John P. Murtha Member of Congress

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