



The Honorable Joe Main  
Assistant Secretary of Labor  
Mine Safety and Health Administration  
U.S. Department of Labor  
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Centers for Disease Control  
and Prevention (CDC)  
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**DEC 16 2016**

Dear Mr. Main:

Thank you for your letter of December 14, 2016, detailing concerns regarding the potential unintended impact on underground coal miners arising from the new respirator approval requirements at 42 C.F.R. Pt. 84, Subpart O. Respirators in this rule are approved jointly by the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA) for those respirators, described as self-contained self-rescuers (SCSRs) and termed in Part 84 as closed-circuit self-rescuers (CCERs).

NIOSH understands that you believe that enforcing the January 4, 2017 deadline for manufacture, labeling and sale of SCSRs under the former standard, 42 C.F.R. Pt. 84, Subpart H, reduces safety protections currently available to miners. NIOSH is aware that the Federal Mine Safety and Health Act requires that "no mandatory health or safety standard...shall reduce the protection afforded by an existing mandatory health or safety standard." NIOSH further understands that on this basis MSHA has requested that NIOSH postpone the January 4, 2017, deadline for further manufacture, sale, and delivery of Subpart H respirators.

NIOSH has considered the issues described in your letter, along with information provided to us in letters received from manufacturers of Subpart H and Subpart O escape respirators. One manufacturer requested a 6-month extension of the January 4, 2017 deadline, while another manufacturer opposes granting any extension. After fully evaluating all the information provided to NIOSH, and based on maximizing the protection of underground miners, NIOSH proposes issuing guidance to inform affected regulated parties that, in alignment with NIOSH's regulations, it does not intend to revoke certificate of approval for 1-hour escape respirators, approved in accordance with 42 CFR Part 84, Subpart H, that are manufactured, labeled, or sold subsequent to January 4, 2017, provided that there is no cause for revocation under 42 CFR 84.34 or 84.43(c), including misuse of approval labels and markings, misleading advertising, and failure to maintain or cause to be maintained the applicable quality control requirements. The NIOSH proposed guidance is presently under review by the U.S. Department of Health and Human Services.

NIOSH looks forward to continuing its partnership with MSHA to safeguard the health and safety of U.S. coal miners.

Sincerely,

John Howard  
Director