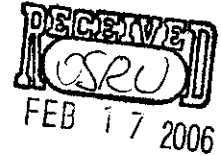


February 17, 2006

Elaine L. Chao
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210



Dear Secretary Chao:

We are concerned to learn of the Mine Safety and Health Administration's (MSHA) proposal to retreat from a legally promulgated regulation to protect underground metal and non-metal miners from diesel particulate matter. (70 *Federal Register* 53280 (2005)) Clearly, miners' health will be adversely affected by a five-year delay in fully implementing the 160 $\mu\text{g}/\text{m}^3$ (total carbon) 8-hour workshift exposure limit — a concentration of particulate pollutant that by any measure is excessive. MSHA's action is particularly disturbing because there is broad consensus in the scientific community, both in the U.S. and abroad, that exposure to fine particulate matter is associated with a wide array of serious adverse health effects, including increased cardiovascular, cardiopulmonary and respiratory mortality. In addition, a recent study reconfirms the carcinogenicity of diesel particulate matter, concluding:

“... these results indicate that the association between diesel exhaust exposure and lung cancer is real. These results along with previous studies of lung cancer and diesel exhaust support current efforts to reduce emissions in both occupational and general environmental settings.”¹

In January 2001 when MSHA issued its diesel particulate matter (DPM) health standard, the agency correctly made the following determinations with respect to health risks faced by diesel-exposed underground miners:

1. Exposure to DPM can materially impair miner health or functional capacity. These material impairments include acute sensory irritation and respiratory symptoms (including allergenic responses); premature death from cardiovascular, cardiopulmonary and respiratory causes; and lung cancer.
2. At DPM levels currently observed in underground mines, many miners are presently at significant risk of incurring these material impairments due to their occupational exposures to DPM over a working lifetime.
3. By reducing DPM concentrations in underground mines, the rule will substantially reduce the risks of material impairment faced by underground miners exposed to DPM at current levels. (66 *Federal Register* 5854 (2001))

¹ Garshick E, Laden F, Hart JE, Rosner B, Smith TJ, Dockery DW, Speizer FE. Lung cancer in railroad workers exposed to diesel exhaust. *Environ Health Perspect.* 2004 Nov; 112(15): 1539-43.

MSHA also noted:

“Given the very high exposure levels measured at some underground mines, miners should not be required to serve as human guinea pigs in order to remove all doubt about the excess risks of DPM exposures in underground mines.” (66 *Federal Register* 5855 (2001))

We urge MSHA to meet its legal obligations to protect miners' health, withdraw this proposed rule and begin prompt enforcement of the 160 $\mu\text{g}/\text{m}^3$ exposure limit.

Sincerely,

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