

December 3, 2007

The Honorable George Miller
Chairman
House Education and Labor Committee
U.S. House of Representatives
Washington, DC 200515:

Dear Chairman Miller:

Thank you for your longstanding commitment to workers' rights and protection from workplace health and safety hazards. As public health scientists, physicians, and practitioners, we realize that most Members of Congress are aware of the safety hazards faced by surface and underground mine workers. We recognize, however, that many of the health hazards faced by these workers are less visible, but still significant and deserving of legislative attention. We are writing, therefore, to express our strong support for the occupational health provisions contained in H.R. 2768, the S-MINER Act, which addresses some of the important hazards that have previously been neglected.

Nearly 40 years ago, when Congress passed the Coal Mine Health & Safety Act (1969), a fundamental goal of the legislation was to prevent the next generation of miners from developing coal workers' pneumoconiosis (CWP). Sadly, that goal is far from being met. In fact, a federal advisory committee chaired by David H. Wegman, MD, MS identified in 1996 the inadequacy of the current regulations to protect miners from developing CWP and silicosis.¹ This panel of experts made 20 major recommendations; most of them have not been adopted by MSHA. As new cases of CWP continue to be diagnosed in miners,^{2,3} we support the provisions of H.R. 2768 that address miners' exposure to respirable coal dust and silica.

We also agree with the legislation's provisions that would require MSHA to adopt OSHA's asbestos standard (1910.1001), given that MSHA has failed to finalize its 2005 proposal to protect mine workers who are exposed to asbestos-containing ore and materials. Currently, U.S. mine workers are the only group of workers who do not have the protection provided

¹ Final Report of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis among Coal Mine Workers, 1996.

² CDC. *Mortality and Morbidity Weekly Report*. Advanced Pneumoconiosis Among Working Underground Coal Miners --- Eastern Kentucky and Southwestern Virginia, 2006; July 6, 2007, 56(26); 652-655.

³ CDC. *Mortality and Morbidity Weekly Report*. Advanced Cases of Coal Workers' Pneumoconiosis --- Two Counties, Virginia, 2006. August 25, 2006, 55(33); 909-913.

by a comprehensive health standard on asbestos. H.R. 2768 will address this serious deficiency.

We support the legislation's call to reinstitute MSHA's Hazard Communication Standard which was issued on October 3, 2000 by the Clinton Administration. That rule required right-to-know information, such as Material Safety Data Sheets (MSDSs), to include the most current information from ACGIH, the National Toxicology Program (NTP,) and the International Agency for Research on Cancer (IARC). (This is the same approach used by OSHA in its HazCom standard.) Under the G.W. Bush Administration, the right-to-know provisions of MSHA's rule were rewritten so that they now refer only to the 2001 editions of the ACGIH, NTP, and IARC documents. It is wise for Congress to reinstitute the more health protective 2001 version of MSHA's rule, which continually provides right-to-know information based on the most recent scientific evidence.

Finally, we support the bill's provision requiring MSHA to adopt new permissible exposure limits (PELs) without preparing its own risk assessment in those instances for which NIOSH has established a recommended exposure limit (REL). As outlined in the legislation, it is reasonable to retain the requirements for MSHA to conduct a feasibility analysis before adopting a new PEL, when miners or mine operators provide credible evidence of feasibility constraints to compliance for the industry as a whole. The new PELs would replace MSHA's current air contaminant values which are based on ACGIH's 1973 threshold limit values (TLVs) and are seriously outdated. We believe the approach taken by the bill is sensible: NIOSH was established to provide this exact kind of scientific expertise to the Department of Labor.

It is our conclusion that the health-protective provisions of H.R. 2768 are thoughtful, sound, and deserving of strong support. We urge all Members of Congress to give this important bill their prompt and favorable attention.

Sincerely,

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