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March 16, 2007

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VIA FACSIMILE – 202-693-6111

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

Dear Secretary Chao:

I am writing to bring the recent announcement by the State of West Virginia that it has approved five different refuge chambers for use in underground coal mines to your attention. In light of this decision, I am urging the Department to take immediate action to require the use of these chambers in underground coal mines throughout the nation. Short of such action, I request that the Department provide me with the legal justification for why it can not take such action.

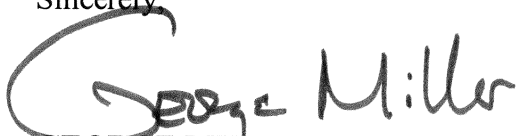
Congress authorized a study of the use of these chambers by the National Institute for Occupational Safety and Health, (NIOSH). While this study is not due to be completed before the end of this year, key questions the study was designed to answer have now been definitively answered in the affirmative by the West Virginia action.

The Mine Safety and Health Act of 1977 provides you with the authority to require mine operators around the nation to start installing such chambers. I am concerned, however, about comments made by Assistant Secretary for Mine Safety and Health, Richard Stickler, at a recent Senate hearing. At this hearing, Mr. Stickler indicated that the deadlines for action in the MINER Act or requirements that studies be conducted somehow limit his ability initiate rulemaking proceedings to require these chambers. I would like to know if the Solicitor of Labor agrees with this interpretation; if so, I would like his detailed legal opinion to that effect, so that we may consider appropriate action. I cannot emphasize enough to you how important it is to quickly address and eliminate the risks to miners through the installation of these chambers.

The Honorable Elaine L. Chao
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On a related matter, the Education and Labor Committee will commence the first of several oversight hearings on the Department's mine safety and health programs beginning on March 28th. While we will not be seeking the testimony of Administration witnesses at this hearing, we anticipate doing so later in the year. I am deeply concerned, however, that I have not received your responses to previous letters I have written requesting specific information (for your reference those letters were dated February 1, 2007; February 12, 2007; and March 7, 2007). Please respond to this correspondence, and to the others, within 15 days of the date of this letter. Thank you for your attention to these issues.

Sincerely,


GEORGE MILLER
Chairman