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May 15, 2017

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor & Pensions
Washington, D.C. 20510

The Honorable Virginia Foxx
Chair
House Committee on Education and the
Workforce
Washington, D.C. 20515

The Honorable Johnny Isakson
Chairman
Senate Subcommittee on Employment and
Workplace Safety
Washington, D.C. 20510

The Honorable Bradley Byrne
Chairman
House Subcommittee on Workforce
Protections
Washington, D.C. 20515

Dear Sens. Alexander and Isakson and Reps. Foxx and Byrne:

Public Citizen is a national, nonprofit public interest organization with 400,000 members and supporters nationwide that advocates for public health and safety interests before legislative bodies, executive branch agencies, and the courts. We are writing to express support for the Accurate Workplace Injury and Illness Records Restoration Act, introduced today by Sens. Patty Murray and Richard Blumenthal and Reps. Mark Takano, Joe Courtney, and Robert C. “Bobby” Scott. This bill would restore the U.S. Occupational Safety and Health Administration’s (OSHA)’s “Volks” rule and reaffirm the agency’s authority to enforce workplace injury and illness recordkeeping requirements.

As you know, last year OSHA issued a rule to clarify an employer’s ongoing obligation to maintain records of an occupational injury or illness for five years. The rule did not create any new obligations for employers. OSHA had been holding employers accountable to this standard for the past 40 years. However, the U.S. Court of Appeals for the D.C. Circuit overturned this decades-long precedent in the 2012 case *AKM LLC (Volks) v. Secretary of Labor*, greatly hindering OSHA’s ability to cite employers for recordkeeping violations. In response, OSHA issued the Volks rule on December 19, 2016 simply to reaffirm its procedures in advance of any other federal courts reviewing OSHA’s recordkeeping regulations.

Unfortunately, President Trump signed a joint resolution of disapproval (H.J. Res 83) which had been adopted by the House and Senate pursuant to the Congressional Review Act (CRA). As a consequence of the CRA, OSHA cannot issue a substantially similar rule absent new authorizing legislation.

Restoring this rule will help protect workers from preventable workplace injuries and illnesses – a laudable goal shared by lawmakers on both sides of the aisle, including President Trump. President

Trump and his administration have promised to look out for regular workers. Recently, he stated, “Every regulation should have to pass a simple test: Does it make life better or safer for American workers or consumers? If the answer is no, we will be getting rid of it and getting rid of it quickly.”

Simply put, OSHA’s Volks rule passes this test. Maintaining accurate injury and illness records is vital for protecting workers from dangerous conditions at work. By inspecting accurate data from employer records, OSHA can use its limited resources to identify and target the hazards putting workers at the greatest risk. Likewise, employers can use the records to proactively keep their own worksites safe. If employers do not keep accurate injury logs, working people will continue to suffer preventable fatalities and injuries on the job.

By using the CRA process to take away OSHA’s ability to sanction employers in dangerous industries, employers have an incentive to hide injuries and illnesses, falsify records and willfully violate the law without any accountability. This represents a fundamental betrayal of President Trump’s promises, and working families will endure devastating consequences.

Protecting workers means giving OSHA the resources its needs to do its job. OSHA’s ability to hold employers accountable to their duty to maintain accurate injury and illness records will create safer workplaces and save lives. Public Citizen supports OSHA’s efforts to track and analyze workplace injuries and illnesses and urges your respective committees to pass the Accurate Workplace Injury and Illness Records Restoration Act to enable OSHA to fulfill its mandate and President Trump to keep his promises.

Sincerely,



Emily A. Gardner, J.D.
Worker Health and Safety Advocate
Public Citizen’s Congress Watch

cc: Sen. Patty Murray, Ranking Member, Senate Committee on Health, Education, Labor & Pensions
Sen. Al Franken, Ranking Member, Senate Subcommittee on Employment and Workplace Safety
Sen. Richard Blumenthal
Rep. Robert C. “Bobby” Scott, Ranking Member, House Committee on Education and the Workforce
Rep. Mark Takano, Ranking Member, House Subcommittee on Workforce Protections
Rep. Joe Courtney