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January 18, 2006

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The Honorable Elaine Chao
Secretary
US Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

RE: Diesel Particulate Matter

Dear Secretary Chao:

As Members of Congress and Ranking Members of the Committee on Education and the Workforce, we are writing to you directly to express our great concern with the continued efforts of your Department to delay and weaken the health standard protecting metal and nonmetal miners from cancer and other adverse health effects associated with exposure to diesel particulate matter (dpm). A key exposure limit to protect miners had been scheduled to go into effect this Friday, January 20, 2006, following a five-year phase-in. Yet, we understand that you have proposed to delay implementation of this requirement for an additional five years, until 2011.

For some years now, it has been clear that the diesel-powered equipment used in many mining operations emits vast quantities of a fine particulate matter (known as diesel particulate matter, or dpm) into the confined spaces in which underground miners labor. The scientific community recognizes that significant exposures to such fine particulates are associated with an increased risk of lung cancer, heart disease and many other serious health problems. In fact, based on this evidence, the Environmental Protection Agency (EPA) has taken numerous actions in recent years to deal with excessive public exposures to such particles. While the EPA has acted, even if weakly, the Department of Labor has stalled.

Miners in underground metal and nonmetal mines remain exposed to such high concentrations of these harmful particles that they face a significant risk of death or serious disease. For your reference, we attach a chart on dpm exposures for various workers. As you can see, miners experience exposures dramatically higher than any other at-risk worker. This chart was published by the Department – in 2001. Indeed, miners today are dying from conditions that are

known to be associated with such exposures. Those who continue to work are only too aware of the ravages that occupational diseases have taken on those who came before.

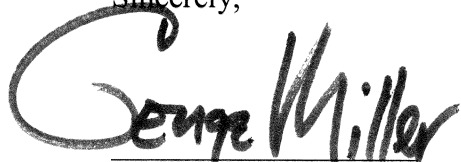
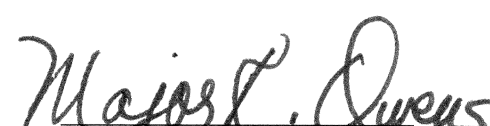
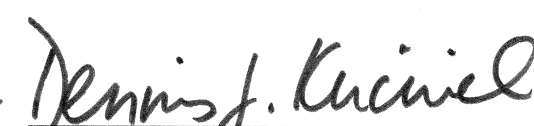
In January 2001, after many years of study and rulemaking, the Department's Mine Safety and Health Administration (MSHA) issued rules to limit such harmful exposures. The rules were not onerous. The rules did not attempt to fully eliminate the risks to miners; only to reduce miner exposures to the levels experienced by other workers exposed to diesel emissions. The agency set a final limit on exposure which, according to overwhelming evidence, was feasible for the industry to achieve. Moreover, that limit was only scheduled to go into effect this month, on January 20, following a 5-year phase-in.

Since it took office, however, this Administration has taken numerous actions to thwart implementation of this rule. Various provisions were delayed time and again. Important requirements were amended or eliminated. Most recently, in September of 2005, the Department of Labor formally proposed that the industry receive yet another five years to comply with the final exposure limit. Moreover, the Department has stated that even further rulemaking will be required before the final exposure limit can be implemented.

There has been an intensive campaign by the metal and nonmetal mining industry to delay and weaken this rule. It is unfortunate that the Department's actions since 2001 have been guided by the unsubstantiated assertions of the industry rather than the extensive rulemaking record. That record continues to demonstrate that it is feasible for the industry to comply with the existing final exposure limit. Further delays and changes to weaken the rule are unwarranted.

The diesel particulate rule is desperately needed to protect miners from serious hazards to their health. We urge you to let the 2001 rule go into effect without further delay, and to take actions to strengthen the protections it affords to underground metal and nonmetal workers. We ask that a copy of this letter be included in MSHA's rulemaking docket.

Sincerely,

		
GEORGE MILDER	MAJOR OWENS	DENNIS KUCINICH
Senior Democrat	Ranking Member	Member of Congress
Committee on Education & the Workforce	Subcommittee on Workforce Protections	

Attachment

cc: Mine Safety and Health Administration
Office of Standards, Regulations and Variances

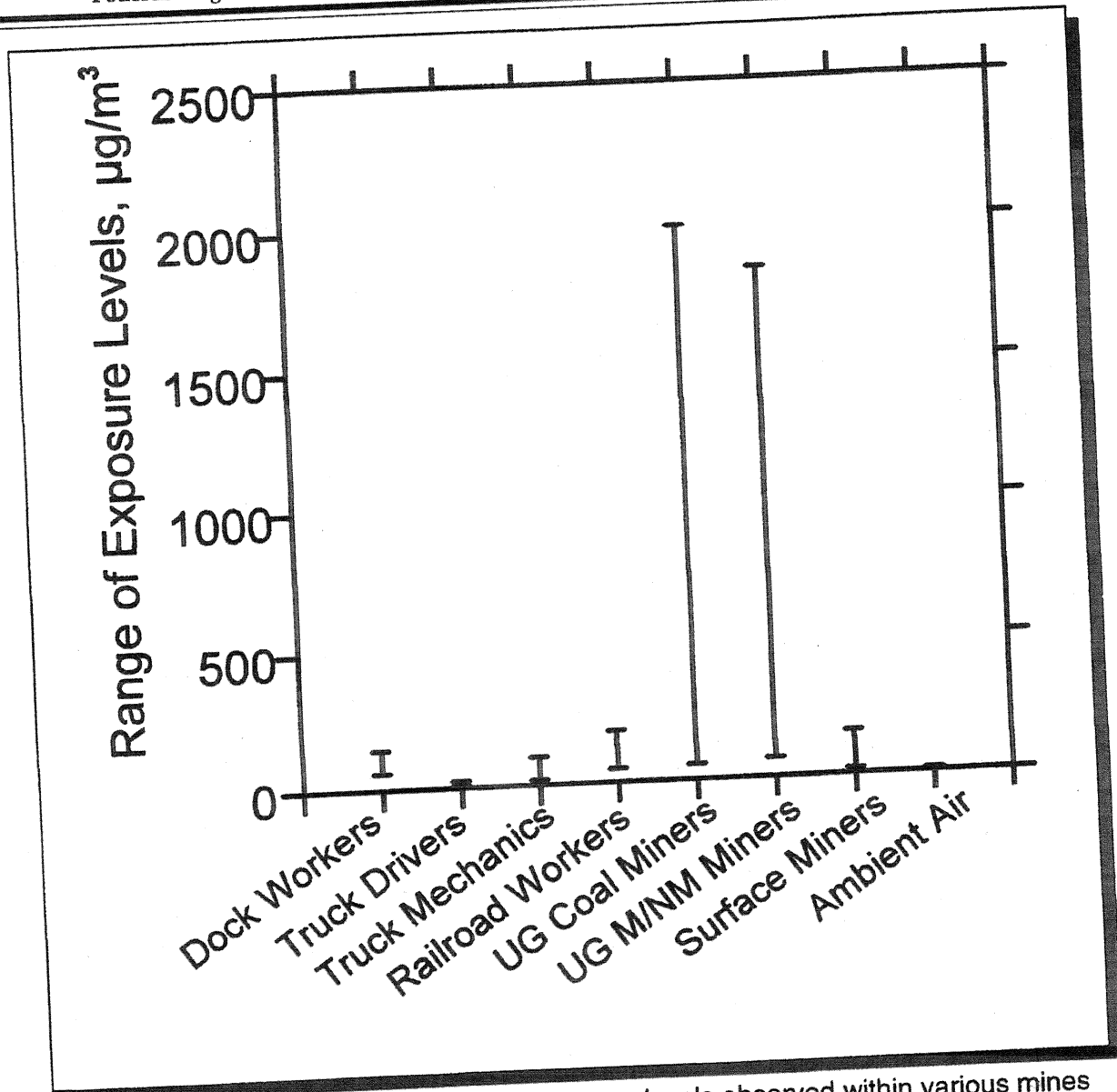


Figure III-4. — Range of median dpm exposure levels observed within various mines for underground and surface miners compared to range of median Dpm exposure levels estimated for other occupations. Range of dpm exposure levels for ambient air is for urban environments only and is based on the monthly mean for different months and locations in Southern California. Range for ambient air is roughly 1 to 10 $\mu\text{g}/\text{m}^3$.