

September 5, 2008

VIA ELECTRONIC DELIVERY

Office of the Assistant Secretary for Policy
200 Constitution Avenue, N.W., S-2312
Washington, DC 20210
ATTN: Risk Assessment Policy

Re: Department of Labor Requirements for DOL Agencies' Assessment of
Occupational Health Risks, RIN 1290-AA23

Dear Assistant Secretary Sequeira:

We respectfully request that you extend the comment period for the above-listed proposal for an additional 60 days (for a total comment period of 90 days, ending November 28, 2008). The proposed policy would benefit from detailed input provided by a broad spectrum of science and policy experts who need more than the allotted time to compile their comments.

We also note that good risk assessment practice is a constantly evolving concept and so the Department's risk assessment policies should be published in a more informal format, such as a guidance document. So long as the Department sees the need to publish this policy as formal regulations, though, we believe that the comment period should be extended and the Department should afford the public the opportunity to present testimony about the policy in hearings. Thus, we object to the inadequate comment period included in this rulemaking and request that the Department provide an opportunity for a hearing on the issues under both § 6(b)(3) of the Occupational Safety and Health Act (29 U.S.C. § 655(b)(3)) and § 101(a)(3) of the Mine Safety and Health Act (30 U.S.C. § 811(a)(3)).

Our objection is rooted in the fact that the complexity of the issues involved in this rulemaking warrant a more detailed analysis than can be accomplished in 30 days. As exemplified by the voluminous materials published by the Presidential/Congressional Commission on Risk Assessment and Risk Management and numerous committees of the National Academies of Sciences' National Research Council, the best practices for risk assessment and risk management are fraught with many intricate technical details. Analyzing these details in the context of worker protection laws and the realities of occupational safety and health research increases the complexity of the task. In order that we might provide the most helpful feedback on your proposal, we request the time extension and hearings mentioned above.

In addition, as of today's date, the docket for this rulemaking is incomplete, limiting the public's ability to provide useful input within the short comment period. The studies referenced in the Notice of Proposed Rulemaking should have been placed in the docket prior to the commencement of the comment period. Moreover, it has come to light that the Department spent \$349,000 on a contract with private organizations to review its risk assessment policies. The results of that review, assuming they were part of the process of developing this NPRM, should have been placed in the docket before the comment period began.

Finally, the abbreviated comment period is a departure from the agency's typically deliberate pace of review on proposed rules. In the past, when OSHA and MSHA have set binding criteria to govern the evaluation of scientific information, they have relied on the standard-setting process to do so and have provided the public with longer comment periods. The Department's draft information quality guidelines (which, notably, were not codified as regulation as the proposed risk assessment policy would be) had a comment period totaling 60 days.

For these reasons, we request that you make the comment period useful by ensuring sufficient time and a diversity of venues to comment and provide productive feedback. In particular, the hearings will provide the public with the opportunity to present ideas about how the proposed policy compares to good risk assessment practices as defined by influential groups like the National Research Council. Thank you.

Sincerely,

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