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March 3, 1997

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SEP 9 1997

The Honorable Gregory Watchman
Acting Assistant Secretary of Labor
for Occupational Safety & Health
Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Hexavalent Chromium Petition

Dear Mr. Watchman:

Nearly four years ago Public Citizen Health Research Group and the Oil, Chemical and Atomic Workers International Union filed an emergency rulemaking petition to protect workers from the grave health risks associated with exposure to hexavalent chromium. As we stated at that time, and as remains true today, more than 200,000 chromate workers are exposed to hexavalent chromium every year and, at current permissible exposure levels of 100 ug/m³, 22% of them would be expected to contract lung cancer over a working lifetime. OSHA denied the petition for an emergency rule but admitted that "there is clear evidence that exposure . . . at the current PEL . . . can result in an excess risk of lung cancer" and other related illnesses, and agreed to undertake a rulemaking on an expedited basis to set a new standard under section 6(b) of the Act.

Two years later, in 1995, OSHA had not yet issued a NPRM and, in response to additional requests from petitioners, indicated that it intended to delay the rulemaking process until completion of a Johns Hopkins study. OSHA stated that it intended to publish a NPRM in April 1996, to hold public hearings in July 1996, and to publish the final rule within eighteen months, or by April 1998.

As of this date, OSHA has yet to issue a NPRM and sources tell us that it is unlikely to do so any time soon. At the same time, recent journal articles underscore the grave hazard posed to workers by exposure to chromium, including the significant risk of lung cancer associated with exposure to hexavalent chromium. See, e.g., Thomas F. Mancuso, Chromium as an Industrial Carcinogen: Part I, American Journal of Industrial Medicine 31:129-139 (1997).

Mr. Gregory Watchman
March 3, 1997
Page Two

Accordingly, unless petitioners receive assurance that (a) a proposed rule will be issued immediately, and (b) the agency is committed to a detailed timetable for the publication of a final rule, petitioners will have no option but to seek a court order to compel the rulemaking. While we remain interested in working with the agency to find means to expedite the rulemaking, we are deeply concerned that the years of delay represent a retreat from the agency's avowed commitment to undertake this rulemaking.

We look forward to receiving your response no later than thirty days from the date of this letter.

Very truly yours,

Colette G. Matzzie

Colette G. Matzzie
Staff Attorney
Public Citizen Litigation Group

Dr. Sidney M. Wolfe

Dr. Sidney M. Wolfe
Director, Public Citizen Health
Research Group