

Congress of the United States
Washington, DC 20515

November 1, 2005

The Honorable John D. Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

The Occupational Safety and Health Administration (OSHA) is working to finalize by next January a costly set of regulatory changes to the existing permissible exposure limit (PEL) for hexavalent chromium.

Chromium is a naturally occurring element used by a broad cross section of U.S. manufacturing. Its versatility and strength has made it virtually indispensable in countless everyday applications, and it remains nearly unrivaled in a range of key industry sectors, including aerospace and defense, shipbuilding and steel manufacturing, metal finishing, automotive repair, industrial and agricultural machinery, painting, welding and others. As a result, the U.S. manufacturing base and thousands of American-made products and jobs depend on this critical material.

The current permissible exposure level of hexavalent chromium is 52 ug/m³. OSHA has proposed a permissible exposure limit of 1.0 ug/m³. This is a limit 50 times more stringent than the current standard and 50 times more stringent than the exposure limits of our major trading partners in Europe and Asia. This drastic decrease will harm manufacturing and hinder our nation's ability to remain internationally competitive.

In light of the serious competitive challenges the nation already faces, we believe that any final regulation should minimize the potential for substantial job losses and closures to family-owned, small businesses and adverse competitive pressures that prompt companies to relocate certain operations overseas. Industry estimates show that the new limit will cost all impacted sectors over \$3 billion annually, far greater than OSHA's estimated cost of \$220 million; making this rule one of the most expensive federal regulations in recent years.

We are aware that OSHA has proposed to lower the PEL in order to protect worker health. However, the proposed regulation does not reflect legitimate questions regarding the underlying science and contains an incomplete appraisal of the impact on the business community. Recent analyses submitted to OSHA during the comment period point out that the agency failed to include whole industry sectors in its assessment of the proposed rule. Additionally, the proposed limit is so low that the technology OSHA identified as meeting the proposed limit would not allow thousands of small businesses and other operations to successfully comply, raising serious questions about whether OSHA's proposed limit is technologically feasible.

It should be noted that maintaining a reasonable PEL – one that both protects the health of workers and the livelihood of American businesses – is action consistent with the goal of ensuring the competitiveness of domestic manufacturing. This particular viewpoint needs to be taken into consideration as part of the review of this rule.

We urge you to ensure OSHA fully assesses whether the proposed limit is technologically feasible, bears no adverse consequence to American jobs, and falls in line with the goal of preserving domestic manufacturing competitiveness.

We appreciate your time and attention in this matter.

Sincerely,

Candice S. Miller

CANDICE S. MILLER
Member of Congress

J. Gresham Barrett

J. GRESHAM BARRETT
Member of Congress

Paul E. Gillmor

PAUL E. GILLMOR
Member of Congress

Steve Chabot

STEVE CHABOT
Member of Congress

Melissa A. Hart

MELISSA A. HART
Member of Congress

Philip S. English

PHILIP S. ENGLISH
Member of Congress

Kenny C. Hulshof

KENNY C. HULSHOF
Member of Congress

Virginia Foxx

VIRGINIA FOXX
Member of Congress

John Kline

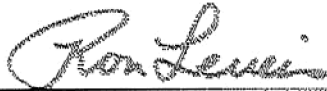
JOHN KLINE
Member of Congress

Jim Gerlach

JIM GERLACH
Member of Congress

Joseph Knollenberg

JOSEPH KNOLLENBERG
Member of Congress



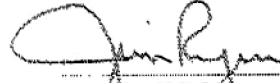
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Member of Congress



PAUL D. RYAN
Member of Congress



DON MANZULLO
Member of Congress



JIM R. RYUN
Member of Congress



JOSEPH R. PITTS
Member of Congress



MARK E. SOUDER
Member of Congress



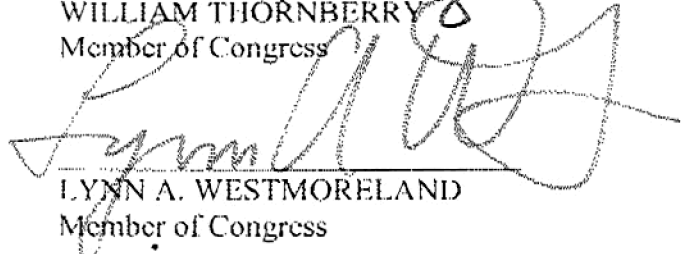
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Member of Congress



WILLIAM THORNBERRY
Member of Congress



MICHAEL J. ROGERS
Member of Congress



LYNN A. WESTMORELAND
Member of Congress



ROGER F. WICKER
Member of Congress

cc: Elaine L. Chao, Secretary, Department of Labor

United States Senate

WASHINGTON, DC 20510

November 2, 2005

**VIA FACSIMILE
ORIGINAL BY U.S. MAIL**

The Honorable Elaine L. Chao
Secretary
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

The Honorable John D. Graham, Ph.D.
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue NW
Washington, DC 10503

Dear Secretary Chao and Dr. Graham:

It is our understanding that the Occupational Health and Safety Administration (OSHA) is working to finalize by next January a costly set of regulatory changes to the existing permissible exposure limit (PEL) for hexavalent chromium.

The U.S. manufacturing base and thousands of American-made products and jobs depend on this critical material in a range of applications, including aerospace and defense, stainless steel and metal finishing, industrial and agricultural machinery, and painting and welding. OSHA's proposed limit of 1 microgram per cubic meter ($\mu\text{g}/\text{m}^3$) represents a limit 50 times more stringent than the current standard and 50 times more stringent than the exposure limits of our major trading partners in Europe and Asia.

It is also our understanding that recent analyses submitted to OSHA during the comment period suggest that the agency failed to include whole industry sectors with many small businesses in its assessment of the proposed rule. Furthermore, we are concerned that the proposed limit is so low that thousands of small businesses will have difficulty successfully complying, raising serious questions about whether OSHA's proposed limit is technologically feasible.

In light of the serious competitive challenges currently facing the nation, any final regulation should minimize the potential for substantial job losses and closures to family-

owned, small businesses and adverse competitive pressures that prompt companies to relocate certain operations overseas. By some estimates, the cost to the U.S. economy for a limit this low will easily exceed \$3 billion annually, which is far greater than OSHA's estimated cost of \$220 million and could make this rule one of the most expensive federal regulations in recent years.

We understand and support the need for a more protective PEL. However, before taking final action on this rulemaking, we urge you to ensure that OSHA fully assesses the technological feasibility of the proposed limit and the potential adverse consequences of the rule on American jobs and competitiveness.

Sincerely,

Jeff Bond

Michael Benji

[Signature]

Jim Talent

John Coury

Lee Neubauer

Jim DePort

Mark Hager

Larry Chambliss

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October 5, 2005

The Honorable Joshua B. Bolton
Director
Office of Management and Budget
Old Executive Office Building
Washington, D.C. 20503

Re: *Proposed Rule Concerning Occupational Exposure to Hexavalent Chromium*

Dear Director Bolton:

As Chairman of the U.S. House of Representatives Committee on Education and the Workforce and Chairman of the Subcommittee on Workforce Protections, we are writing with respect to the Occupational Safety and Health Administration's (OSHA) proposed regulatory changes to the permissible exposure limit (PEL) of hexavalent chromium (Cr(VI)). We are aware that OSHA has been ordered to revise the current PEL by January 18, 2006 by the U.S. Court of Appeals for the Third Circuit, and that the Office of Management and Budget is preparing to review the rule as required under the Administrative Procedures Act. We write to ensure that the reduced timeline imposed by the court does not limit OSHA's ability to carefully review all information provided with respect to the rulemaking and to bring our concerns about this expedited rulemaking to your attention.

Last year, Chairman Norwood encouraged OSHA to extend the regulatory comment period in order to allow stakeholders to fully examine the scientific documentation released by OSHA with the notice of proposed rulemaking. In response, then-Administrator Henshaw stated that, "OSHA's discretion in this case is limited." In short, the comment period was not extended. Mr. Henshaw's letter also highlighted the fact that OSHA believed it needed a total of 47 months to adequately complete the rulemaking. Instead, the court has ordered the rulemaking completed in 37 months, 10 months less than OSHA believed necessary.

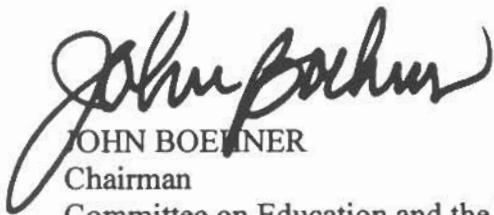
The testimony and record evidence provided with respect to the Cr(VI) rulemaking has been extensive, including written comments on the rule, ten days of public hearings, and the

ongoing exchange of information from those who testified at the hearing. In addition, prior to OSHA's October 2004 publication of the proposed rule, other branches of government have examined the Cr(VI) PEL, including the Small Business Administration's Office of Advocacy, which we understand submitted extensive comment for the rulemaking docket.

We are concerned that the extraordinary amount of information gathered through the rulemaking process, and the complexity of the information presented, could be overwhelming in light of the abbreviated timeframe imposed by the courts. Commenters have highlighted the impact on small business, the economic impact, and the technological feasibility of implementing the proposed rule. We write today to urge that OMB thoroughly examine all such evidence and give careful consideration to the scientific data presented as a final regulation is presented. Put more simply, the impact of the final Cr(VI) regulation could have far-reaching safety, health, and economic effects. We trust that OMB will review all evidence received from all parties in a thorough and objective manner, so that any final rule is based on sound scientific data and reflects the practicalities of today's workplace.

We thank you for your time and attention to this matter. If we may be of assistance to you, please do not hesitate to contact either of us directly.

Sincerely,



JOHN BOEHNER
Chairman
Committee on Education and the Workforce



CHARLIE NORWOOD
Chairman
Subcommittee on Workforce Protections