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January 10, 2008

VIA FACSIMILE: 202-693-1659

Edwin Foulke

Assistant Secretary of Labor
The U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Assistant Secretary Foulke:

On December 19, 2007, four workers were killed and a dozen injured in a massive explosion at T2 laboratories in Jacksonville, Florida. According to a statement issued on January 3, 2008 by the Chemical Safety Board, which is investigating the incident, the explosion was the result of an out-of-control chemical reaction.

I am writing to ask you to take immediate steps to revise the Process Safety Management standard (1910.119) to improve the control of reactive hazards as recommended by the Chemical Safety Board in 2002.

As you are aware, the CSB conducted a major study of reactive hazards in 2002 and made a number of safety recommendations to OSHA and other parties. The study identified 167 serious reactive chemical accidents resulting in 108 fatalities in the U.S. over a 20 year period. The CSB concluded that reactive incidents are "a significant chemical safety problem" and that OSHA's PSM standard has "significant gaps in coverage of reactive hazards because it is based on a limited list of individual chemical with inherently reactive properties." The CSB therefore recommended that OSHA "amend the Process Safety Management (PSM) Standard, 29 CFR 1910.119, to achieve more comprehensive control of reactive hazards that could have catastrophic consequences."

The tragic T2 Laboratory explosion appears to be a classic example of the inadequacy of the current PSM standard. The CSB stated on January 3 that the process "involved heating and reacting organic materials with metallic sodium." Sodium would not be

covered under the current process safety management standard. As the 2002 CSB study found, only 10 percent of the 167 reactive incidents it identified involved chemicals that would have been covered by the current standard.

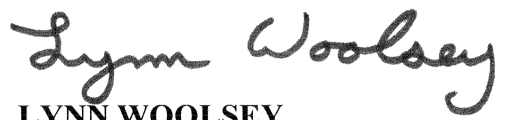
The 2002 CSB report was not OSHA's first notification that the Process Safety Management standard was seriously flawed. In 1995, five national unions petitioned OSHA for a PSM revision following an explosion and fire that year that claimed five lives at a Lodi, New Jersey plant. In response, OSHA placed reactive hazards on its regulatory agenda in 1998. Unfortunately, OSHA withdrew a proposed Advance Notice of Proposed Rulemaking from the regulatory agenda in 2001 because of "resource constraints and other priorities." In June 2003, following the CSB's report, eight national labor unions, the Building and Construction Trades Department of the AFL-CIO and the AFL-CIO itself petitioned OSHA to amend the PSM standard.

OSHA has failed to comply with the CSB recommendation or accept the union petitions, choosing instead to rely on compliance assistance and voluntary efforts, including the establishment of the Chemical Reactivity Hazards Management Alliance which concluded in March 2007. In February 2004, the CSB informed OSHA that this response to its recommendation was "unacceptable." Meanwhile, from July 2001 to December 2006, the CSB recorded 249 additional reactive incidents. The Board itself investigated another 12 reactive incidents involving three fatalities and more than 200 injuries during that period.

Modifying the PSM standard as recommended by the CSB would most likely have covered the reactive process at T2 Laboratories and compliance with that modified standard might have prevented the fatal explosion. Other workers' lives remain at risk. Because of the continuing uncontrolled hazards of reactive chemicals, revising the Process Chemical Safety standard to cover reactive hazards should be a high priority of OSHA, and I strongly urge you to act now.

Sincerely,


GEORGE MILLER
Chairman


LYNN WOOLSEY
Chair
Workforce Protections Subcommittee