

A “SNEAK ATTACK” BY THE DEPT. OF LABOR ON WORKERS’ PROTECTIONS FROM EXPOSURE TO TOXINS

The Department of Labor’s (DOL’s) record on worker safety and health under the Bush Administration has been disgraceful. During the past 7 ½ years the Department of Labor adopted only one new rule to limit exposure to a chemical (hexavalent chromium) and that was because of a court order. It has stalled on taking any action on proposed rules for limiting exposure to silica, combustible dust, beryllium and diacetyl, all of which have caused preventable worker illnesses, injuries, and death.

But a new proposal that was secretly developed by DOL political appointees in the policy office, that was illegally withheld from public notice, and would make it much more difficult to regulate workers’ exposure to chemicals and toxins, has now become the Department of Labor’s top priority for “fast track” passage.

The existence of this proposed “secret rule” first came to light in an article posted on the blog “The Pump Handle” by Celeste Monforton who is with the Project on Scientific Knowledge and Public Policy at George Washington University School of Public Health and formerly worked for OSHA and MSHA. (Links to her articles are at the end of this story). A Washington Post reporter, Carol Leonnig, picked up on the blog story. Her first article appeared in the Post on July 23, 2008. According to the article, the proposed rule (which has not yet been made public) would call for reexamination of how risks from exposure to workplace chemicals and toxins are measured. It would change the criteria and assumptions that OSHA and the Mine Safety and Health Administration (MSHA) use about lifetime exposures when developing risk estimates. Currently both laws explicitly require DOL to protect workers against lifetime exposures. The new proposal requires the agency, where possible, to set future exposure limits based on industry-specific data for worker retention. Evidently the Bush Department of Labor and the business lobby don’t like the working life model of 45 years because their statistics show that most workers do not stay with the same employer for more than 5 to 7 years. Peg Seminario, Safety and Health

Director of the AFL-CIO, responded that even when workers change companies, they often remain in the same industry and work around the same hazards throughout their career. “People who really do work their whole lifetime don’t get protected, it’s as simple as that,” she said of the proposed rule which she called “the most cynical and diabolical” effort to manipulate the rule-making process she has seen in 31 years.

The rule would also require the DOL to take an extra procedural step before setting new limits on chemicals in the workplace. It would allow an additional round of challenges to agency risk assessments used to determine how much exposure to certain chemicals is unsafe. Many, including national unions, public health scientists and Democratic Congressional leaders, believe this is a crude attempt to block the next administration’s efforts to reduce workers illnesses and deaths, and is a parting “gift” to industry.

According to the Washington Post article on July 23rd, early this year Deborah Misir, a political deputy in the DOL office of the assistant secretary for policy, worked with the Office of Management and Budget (OMB) to draft a new risk-assessment rule. She is a former ethics advisor to Bush. The policy office does not normally take the lead on rules involving risk assessment. Misir waited until April to even seek comments from the department’s scientific workplace–risk-assessment experts (from OSHA and MSHA) that have statutory authority and expertise in the area. They objected to the proposal and recommended that the DOL not pursue such a rule. In May when the Department listed regulations “under development or review”, this rule was not listed but a draft was secretly circulating among a small group of advisors. Then on July 7th, the nine word title of the proposed rule was listed on the OMB website, breaking the June 1 deadline set by White House Chief of Staff Joshua Bolten for any new proposed regulations.

On July 23rd Senator Edward Kennedy, Chair of the Senate Labor Committee, and Representative George Miller, Chair of the House Labor and Education Committee, sent a letter to DOL head Elaine Chao demanding that she withdraw the proposal and turn over internal documents of communications with special interest groups related to the rule.

On July 30th Representative Miller and other House democrats introduced legislation to prevent the DOL from finalizing the proposed rule. "Prohibiting the Department of Labor's Secret Rule Act" (H.R. 6660) will forbid the Department of Labor from issuing, administering, or enforcing any rule, regulation, or requirement derived from the proposed rule.

We all fought very hard for the Right to Know and for protections from exposure to the chemicals that kill or make workers seriously ill. If ever we needed a reminder of just how little regard the current administration has for workers' lives, this is it!

As the nation's attention is focused on the November presidential election, we cannot allow this proposed rule to slip through. We will keep you apprised of developments as they happen and any needed actions. Also be sure to contact your national union's health and safety department or your area leadership to get more information about this "sneak attack."

Here are some links for additional information:

Washington Post Stories

<http://www.washingtonpost.com/wp-dyn/content/article/2008/07/22/AR2008072202838.html?hpid=topnews>

http://www.washingtonpost.com/wp-dyn/content/article/2008/07/24/AR2008072403021_pf.html

http://www.washingtonpost.com/wp-dyn/content/article/2008/07/25/AR2008072500595_pf.html

Articles by Celeste Monforton of George Washington University who was the first to uncover the proposed rule

<http://thepumphandle.wordpress.com/2008/07/08/secret-rule-on-osha-risk-assessment/>

<http://thepumphandle.wordpress.com/2008/07/10/congress-demands-briefing-on-chaos-mystery-proposal-for-risk-assessment/>

<http://thepumphandle.wordpress.com/2008/07/23/rushing-not-to-protect-workers-health/#more-1075>

AFI-CIO

<http://blog.aflcio.org/2008/07/23/bush-labor-dept-secretly-writes-rule-on-worker-exposure-to-toxins>

Editor's Note: We are very proud that Celeste Monforton is a "Gold" member of Philaposh and has been supportive of our work locally in reaching out to and working with family members of workers who have died from workplace injuries and illnesses.
