

Bush administration seeking to block regulation of workplace toxins

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As the Bush administration enters its final six months in office, the US Department of Labor is attempting to push through rule changes aimed at making it more difficult to set new standards for exposure to toxic substances and hazardous chemicals in the workplace. This is part of the Bush administration's efforts to weaken federal oversight and dismantle regulatory protections on behalf of big business.

A July 7 posting on the White House Office of Management and Budget website reports plans to change the way risk assessments are made regarding occupational exposure to dangerous substances. In so doing, the government bypassed required procedures for public notices for regulatory changes.

The proposed rules represent an attempt by the White House to enact regulatory changes demanded by big business, which have long complained that the government overstates the risk to workers posed by toxic substances.

According to a report published in the July 23 edition of the *Washington Post*, the measure would change the methods used to calculate the risk posed by exposure to hazardous substances in the workplace. It would also allow additional challenges to Labor Department risk assessments, making it more difficult to enact new restrictions on hazardous substances.

The Labor Department is refusing to disclose the full text of the proposed changes. In response to a Congressional request for more information, a department official said the proposed rule change was under executive department review, with no release date set. The letter indicated that public hearings might not even be held.

The hasty and secretive manner in which the rule change is being pursued is raising well-founded suspicions that the Bush administration is attempting to use its final months in office to impose a measure that will

further seriously undermine the on-the-job health and safety of American workers.

A professor specializing in workplace safety at George Washington University quoted by the *Post* called the new rules "A guarantee to keep any more worker safety regulations from ever coming out of OSHA [the Occupational Safety and Health Administration]."

Reviewing the background of the Bush administration's attempt to change risk assessment procedures, the *Post* reported, "Early this year, Deborah Misir, a political deputy in Labor's office of the assistant secretary for policy, worked with the Office of Management and Budget (OMB) to draft a new risk assessment rule. A former ethics adviser to Bush, Misir had complained that the department's assumption of a 45-year working life overstated the risk of exposure."

New standards for risk assessment proposed by the OMB in 2006 were withdrawn after the National Academy of Sciences called them "fatally flawed," saying they lacked scientific grounding.

The *Post* reports that, according to its sources, "Misir initially did not consult scientific and workplace-risk-assessment experts in OSHA and the Mine and Safety and Health Administration."

Since taking office, the Bush administration has attempted to limit or roll back health and safety regulations, indeed all workplace reforms, which it considers an intolerable drain on corporate profits.

Over the past seven and a half years, OSHA has implemented only one new workplace safety rule—and that only came as the result of a court order. Likewise, OSHA's counterpart, the Mine Health and Safety Administration, has refused to implement any significant rule changes despite a series of fatal mining disasters over the past several years. According to an internal Labor Department report, the agency failed to complete inspections at 15 percent of US mines in 2006.

A report published in the April 25, 2007 *New Times* notes that since 2001 OSHA “has killed dozens of existing and proposed regulations and delayed adopting others.” It cited silica dust, a recognized carcinogen, which the agency still refuses to regulate with new workplace safety standards.

The *Times* cited a case at a Missouri popcorn factory involving workers exposed to the chemical diacetyl, a food flavoring agent. Nine workers contracted a rare and deadly disease attacking the lungs. Doctors determined that diacetyl caused the workers to get sick, but OSHA has yet to mandate any new safety standards or significantly increase inspections. Since the initial cases in 1999, hundreds more workers have been poisoned.

In the wake of the alarming number of recent deaths related to crane collapses, OSHA still refuses to establish a crane safety standard or step up inspections at construction sites. A recent Congressional hearing exposed the fact that OSHA regulators in Las Vegas, Nevada had withdrawn citations against building contractors involved in deaths due to crane collapses after private meetings with employers.

The current head of OSHA, Edwin Foulkes, was, before his appointment in 2006, a top Republican Party fundraiser from South Carolina who worked for Jackson Lewis LLP, a notorious union-busting law firm.

Shortly after being confirmed as head of OSHA Foulkes made a speech, “Adults do the darndest things” which blamed worker carelessness for most on-the-job injuries.

OSHA claims “success” for its policies, citing a decline in workplace-related deaths and injuries since 2001. However, the official figures are not reliable because the Bush administration has reduced the number of recognized injuries. Meanwhile, injuries suffered by undocumented workers, who work at some of the most dangerous jobs, usually go unreported.

The disregard of worker health and safety runs parallel with the Bush administration’s lack of enforcement of overtime and minimum wage standards. A report released July 15, by the Government Accountability Office (GAO) found that the Labor Department’s Wage and Hour Division (WHD) had failed to adequately investigate worker complaints about underpayment of wages and other labor law violations. The WHD is responsible for enforcing wage payments by businesses with more than \$500,000 in annual sales.

The report titled, “Case Studies from Ongoing Work Show Examples in Which Wage and Hour Division Did Not Adequately Pursue Labor Violations.”

(<http://www.gao.gov/new.items/d08073t.pdf>) is a partial review of the more than 70,000 closed cases filed by the WHD from 2005 to 2007. Most of the case studies featured in the report involved workers who did not receive the minimum wage, who were denied mandatory overtime pay or who did not receive paychecks.

In all the 15 cases it reviewed in detail, the GAO found that the WHD’s investigation was inadequate. It said it improperly dropped valid employee complaints, relied exclusively on employer testimony, and delayed investigations, in some cases for over one year, then dropped the cases because the statute of limitations was about to expire.

In a complaint involving alleged child labor violations related to children using heavy machinery, the WHD dropped the case, claiming it could not locate the employer. However, GAO investigators easily located the company, which was still in business.

In one case that it investigated, a nursing home failed to pay a homeless woman who worked as a night attendant for one full year, saying it provided her room and board in lieu of wages. According to the GAO, the division dropped the case and advised the woman of “her right to file a personal lawsuit.”

In another case the WHD confirmed that a company, a previous violator, owed \$60,000 in overtime to 24 employees; however, the division took no action against the company, again advising workers of their right to file a private lawsuit.

Numerous other instances were cited in which exploited employees—often very low wage workers with no job security—were told their only option was to pursue costly legal avenues. In fact, the GAO found at least 16,000 other cases similar to the case studies featured in the report. In most of these cases, a worker filed a complaint for not receiving pay, and the case was closed with a simple phone conversation between investigator and employer and an “advising” of the worker of the right to hire an attorney.

The data suggest that the regulatory agency lets off employers for abuses more as a rule than an exception, with the expense of enforcement laid on the shoulders of those abused.



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