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Lawmaker Pledges to Block 'Secret Rule'

By Carol D. Leonnig
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A congressional leader pledged this morning to introduce legislation that would block an eleventh-hour effort by the Labor Department to make it more difficult to limit workers' exposure to chemicals on the job.

[Rep. George Miller](#) (D-Calif.), chairman of the House Education and Labor Committee, said he was determined to stop a "secret rule" that he described as a Bush administration effort to block the next president from trying to reduce worker deaths and illness caused by workplace toxins.

The Labor Department has refused to discuss or release the proposal, [a copy of which was obtained yesterday](#) by the Post. The [proposed rulemaking](#) would require that the department allow a new round of challenges to the risk assessments used to determine how much exposure to certain chemicals is unsafe, adding another step to the process of setting regulations for workplace chemicals.

Published reports about the effort have spurred anger and condemnation from unions, congressional Democrats and public health scientists. Critics claim the rule is a "midnight regulation" that political appointees quietly drafted without public disclosure and after overriding the objections of the agency's worker safety experts.

Miller's announcement that he will introduce legislation next week to block the measure comes two days after [The Washington Post reported](#) about the details of the draft rule to change how the agency measures chemical risks. The article revealed that political deputies began actively working on the idea in September 2007. The agency did not report its interest in this possible rule in either its December 2007 or May 2008 report on regulations it was considering -- although it was required to do so.

The regulatory effort first became public July 7, when a title of the proposal surfaced on a White House Office of Management and Budget Web site as a draft rule under review.

"This is all about making sure no new safety regulations do get out, " said Celeste Monforton, an occupational health expert at George Washington University School of Public Health and Health Services who reviewed the draft. "It's not even a disguised or sophisticated effort."

Labor's Assistant Secretary Leon R. Sequeira said the criticism of the proposal and its content is "speculative" until OMB reviews and publishes the rule for comment.

The proposal also would increase the chances that future health standards would allow workers to come in contact with higher levels of chemicals on the job than previously allowed.

That is because the draft calls for the department to reconsider its long-standing assumption that lifetime exposure limits be set to protect even those who stay in the same kind of job for 45 years. The new proposal requires the agency, where possible, to set future limits based on industry-specific data for worker retention. The authors said the department believes " the standard 45-year working life model may not always be appropriate," because labor statistics show most workers don't stay with the same employer for more than five to seven years.

"There is no industry or occupation in which more than 5 % of workers remain with a single employer in the industry or occupation for a period of even 35 years," the authors wrote.

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Peg Seminario, the AFL-CIO's safety and health director, called the draft "the most cynical and diabolical" effort to manipulate the rule-making process she has seen in her 31 years in workplace safety. She said 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 draft rule.

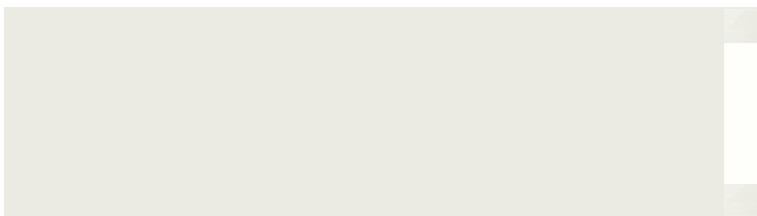
The Bush administration has adopted only one regulation to limit exposure to a chemical, hexavalent chromium -- and that was under court order. This new proposal has become the department's top priority in the final months of the administration, although proposed worker-safety rules for limiting exposure to beryllium, silica and combustible dust remain works in progress after years of being under consideration.

On Wednesday, Miller and [Sen. Edward M. Kennedy](#) (D-Mass.), chairman of the Senate labor committee, demanded in a letter to Labor Secretary Elaine L. Chao that she withdraw the proposal and turn over internal documents of communications with special interest groups relating to the rule. Sequeira said such a request was premature until the draft was public.

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