

Honorable George Miller
Chairman, House Education and Labor Committee
Opening Statement at Full Committee Mark-Up of H.R. 2693,
the Popcorn Workers Lung Disease Prevention Act
June 20, 2007

The legislation we are marking up today seeks to remedy a failure – a deadly failure – on the part of the Occupational Safety and Health Administration to do its job and set standards to protect workers from on-the-job hazards.

The bill forces OSHA to take decisive action to help prevent workers from contracting a severe lung disease as a result of their exposure to a deadly chemical used in the production of microwave popcorn and many other consumer products.

It's been seven years since a doctor in Missouri noticed several cases of an extremely rare, fatal, irreversible disease called *bronchiolitis obliterans* among a group of workers in a popcorn plant. He suspected that the disease, which came to be known as "popcorn lung," was caused by chemical exposures at the plant.

Less than two years later, the National Institute for Occupational Safety and Health confirmed the connection between "popcorn lung" and diacetyl, a chemical used in artificial butter flavoring that NIOSH scientists described as causing "astonishingly grotesque" damage to the lungs.

These scientists likened the lung damage from exposure to diacetyl to "inhaling acid." Since then, dozens of workers have been identified with severe lung damage. Many of them need lung transplants, and several have died.

Seven years after the first cases of popcorn lung were identified, and five years after NIOSH published its first report, it is stunning that OSHA has failed to issue a standard protecting American workers from exposure to diacetyl. After all, OSHA is the agency established by Congress over 35 years ago to ensure the safety of American workers.

Yet the agency has not even taken the first step toward issuing such a standard. It has not responded to a year-old union petition for a standard. And it has not responded to a letter from me and several other members of Congress asking for a standard.

We have seen a shift at OSHA over the past several years from mandatory standards to voluntary guidance. The history of “popcorn lung” has provided us a tragic lesson in how this course has led to serious illness and preventable death.

NIOSH issued the first guidelines to protect workers from “popcorn lung” in 2003. Even the main industry association, the Flavoring and Extract Manufacturing Association, issued detailed guidance in 2004 warning about potential serious respiratory illness in workers exposed to flavorings.

Yet the Centers for Disease Control and Prevention recently issued a report showing that many manufacturers never followed the association’s advice. In California, for example, the report found that safety measures “were virtually nonexistent . . . during 2006 when industry-wide government intervention measures began. Before June 2006, only eight California flavor-manufacturing companies had begun medical screening” to see if their workers were being harmed by exposure to diacetyl.

It is this injustice, this tragic and fatal refusal to honor Congressional intent, that this bill seeks to rectify. The Popcorn Workers Lung Disease Prevention Act, H.R. 2693, does two simple things.

First, this legislation requires OSHA to issue an Interim Final Standard within 90 days of the date this law takes effect. That Interim Standard would apply to flavor manufacturing establishments and the microwave popcorn processing and packaging industry.

It would require engineering controls, respiratory protection, exposure monitoring, medical surveillance and worker training. These are not extraordinary measures; rather, they are the same ones recommended four years ago by NIOSH and three years ago by the Food and Extract Manufacturers Association, which supports this bill and supports the need for an OSHA standard.

It would require employers to develop a written exposure control plan that will indicate specific measures the employer will take to minimize employee exposure. Employers would have to reevaluate their plans twice a year.

Second, this legislation requires OSHA to issue a final standard within two years. That standard would apply to all locations where diacetyl is used. It would also set a specific limit on how much diacetyl workers could be exposed to.

This legislation is just one step needed to rectify years of inaction by OSHA. The Bush administration has by far the

worst record of any administration when it comes to issuing OSHA standards.

Only one major standard has been issued over the past six-and-a-half years – and that was done under court order. OSHA regulates only around 400 chemicals out of the thousands in large scale commercial use, and most of OSHA's standards are based on science from the 1940's and 1950's.

It's time to stop the delays in protecting workers from serious workplace hazards. Congress provided OSHA a great deal of leeway in identifying hazards and setting protective exposure limits to enable the agency to act *before* large numbers of workers became sick.

This administration has failed to act. Now Congress must.

Thank you.