

110TH CONGRESS
1ST SESSION

H. R. 2693

AN ACT

To direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Popcorn Workers Lung
3 Disease Prevention Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) An emergency exists concerning worker ex-
7 posure to diacetyl, a substance used in many
8 flavorings, including artificial butter flavorings.

9 (2) There is compelling evidence that diacetyl
10 presents a grave danger and significant risk of life-
11 threatening illness to exposed employees. Workers
12 exposed to diacetyl have developed, among other con-
13 ditions, a debilitating lung disease known as
14 bronchiolitis obliterans.

15 (3) From 2000–2002 NIOSH identified cases
16 of bronchiolitis obliterans in workers employed in
17 microwave popcorn plants, and linked these illnesses
18 to exposure to diacetyl used in butter flavoring. In
19 December 2003, NIOSH issued an alert “Preventing
20 Lung Disease in Workers Who Use or Make
21 Flavorings,” recommending that employers imple-
22 ment measures to minimize worker exposure to diac-
23 etyl.

24 (4) In August 2004 the Flavor and Extract
25 Manufacturers Association of the United States
26 issued a report, “Respiratory Health and Safety in

1 the Flavor Manufacturing Workplace,” warning
2 about potential serious respiratory illness in workers
3 exposed to flavorings and recommending comprehen-
4 sive control measures for diacetyl and other “high
5 priority” substances used in flavoring manufac-
6 turing.

7 (5) From 2004–2007 additional cases of
8 bronchiolitis obliterans were identified among work-
9 ers in the flavoring manufacturing industry by the
10 California Department of Health Services and Divi-
11 sion of Occupational Safety and Health (Cal/
12 OSHA), which through enforcement actions and an
13 intervention program called for the flavoring manu-
14 facturing industry in California to reduce exposure
15 to diacetyl.

16 (6) In a report issued in April 2007, NIOSH
17 reported that flavor manufacturers and flavored-food
18 producers are widely distributed in the United
19 States and that bronchiolitis obliterans had been
20 identified among microwave popcorn and flavoring-
21 manufacturing workers in a number of States.

22 (7) Despite NIOSH’s findings of the hazards of
23 diacetyl and recommendations that exposures be
24 controlled, and a formal petition by labor organiza-
25 tions and leading scientists for issuance of an emer-

1 agency temporary standard, the Occupational Safety
2 and Health Administration (OSHA) has not acted to
3 promulgate an occupational safety and health stand-
4 ard to protect workers from harmful exposure to di-
5 acetyl.

6 (8) An OSHA standard is urgently needed to
7 protect workers exposed to diacetyl from
8 bronchiolitis obliterans and other debilitating condi-
9 tions.

10 **SEC. 3. ISSUANCE OF STANDARD ON DIACETYL.**

11 (a) INTERIM STANDARD.—

12 (1) RULEMAKING.—Notwithstanding any other
13 provision of law, not later than 90 days after the
14 date of enactment of this Act, the Secretary of
15 Labor shall promulgate an interim final standard
16 regulating worker exposure to diacetyl. The interim
17 final standard shall apply—

18 (A) to all locations in the flavoring manu-
19 facturing industry that manufacture, use, han-
20 dle, or process diacetyl; and

21 (B) to all microwave popcorn production
22 and packaging establishments that use diacetyl-
23 containing flavors in the manufacture of micro-
24 wave popcorn.

1 (2) REQUIREMENTS.—The interim final stand-
2 ard required under subsection (a) shall provide no
3 less protection than the recommendations contained
4 in the NIOSH Alert “Preventing Lung Disease in
5 Workers Who Use or Make Flavorings” (NIOSH
6 Publication 2004–110) and include the following:

7 (A) Requirements for engineering, work
8 practice controls, and respiratory protection to
9 minimize exposure to diacetyl. Such engineering
10 and work practice controls include closed proc-
11 esses, isolation, local exhaust ventilation, proper
12 pouring techniques, and safe cleaning proce-
13 dures.

14 (B) Requirements for a written exposure
15 control plan that will indicate specific measures
16 the employer will take to minimize employee ex-
17 posure; and requirements for evaluation of the
18 exposure control plan to determine the effective-
19 ness of control measures at least on a biannual
20 basis and whenever medical surveillance indi-
21 cates abnormal pulmonary function in employ-
22 ees exposed to diacetyl, or whenever necessary
23 to reflect new or modified processes.

1 (C) Requirements for airborne exposure
2 assessments to determine levels of exposure and
3 ensure adequacy of controls.

4 (D) Requirements for medical surveillance
5 for workers and referral for prompt medical
6 evaluation.

7 (E) Requirements for protective equipment
8 and clothing for workers exposed to diacetyl.

9 (F) Requirements to provide written safety
10 and health information and training to employ-
11 ees, including hazard communication informa-
12 tion, labeling, and training.

13 (3) EFFECTIVE DATE OF INTERIM STAND-
14 ARD.—The interim final standard shall take effect
15 upon issuance. The interim final standard shall have
16 the legal effect of an occupational safety and health
17 standard, and shall apply until a final standard be-
18 comes effective under section 6 of the Occupational
19 Safety and Health Act (29 U.S.C. 655).

20 (b) FINAL STANDARD.—Not later than 2 years after
21 the date of enactment of this Act, the Secretary of Labor
22 shall, pursuant to section 6 of the Occupational Safety and
23 Health Act (29 U.S.C. 655), promulgate a final standard
24 regulating worker exposure to diacetyl, if at such time,
25 diacetyl is still being processed or utilized in facilities sub-

1 ject to such Act. The final standard shall contain, at a
2 minimum, the worker protection provisions in the interim
3 final standard, a short term exposure limit, and a permis-
4 sible exposure limit that does not exceed the lowest fea-
5 sible level, and shall apply at a minimum to all facilities
6 where diacetyl is processed or used.

7 **SEC. 4. STUDY AND RECOMMENDED EXPOSURE LIMITS ON**
8 **OTHER FLAVORINGS.**

9 (a) STUDY.—The National Institute for Occupational
10 Safety and Health shall conduct a study on food flavorings
11 that may be used as substitutes for diacetyl and shall
12 transmit a report of the findings of the study to the Occu-
13 pational Safety and Health Administration.

14 (b) CONSTRUCTION.—Nothing in this section shall be
15 construed as affecting the timing of the rulemaking out-
16 lined in section 2.

Passed the House of Representatives September 26,
2007.

Attest:

Clerk.

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