

## **Bush Administration Fails Workers on Safety and Health**

The statutory mandates of both the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) ensure workers have safe workplaces. The Secretary of Labor has the responsibility for ensuring that happens. Yet under the Bush administration, OSHA and MSHA seem to be abdicating their responsibilities to protect workers, instead choosing to implement voluntary programs so favored by its corporate allies. In fact, in agencies and departments across the administration, Bush policies and actions put corporate interests above the public interest. Below are those administration actions that impact worker safety and health.

### **ERGONOMICS**

**March 20, 2001**—President George W. Bush signs a Resolution of Disapproval killing the ergonomics standard, which had been more than 10 years in the making. The rule could have protected 1.8 million workers each year from repetitive strain injuries. These injuries continue to be the biggest job safety problem in the United States.

**April 26, 2001**—Despite promises offered after Congress and the president repealed the ergonomics standard, during a special Senate hearing on ergonomics, Secretary of Labor Elaine Chao put forth no plan to address ergonomic hazards. She failed to present a long-term plan, an interim solution or even a time frame for action.

**June 7, 2001**—Secretary Chao announces she will convene three national public forums on the issue of ergonomics safety in the workplace and that the administration will identify a final course of action on the issue by September. The forums were a sham backed by industry and Republicans in Congress. The one-sided questions asked by the Department of Labor (DOL) reflected only concerns and issues raised by industry opponents and, in fact, have been asked and answered ad nauseam. These questions were an attempt to attack not only the science behind ergonomics but also how ergonomic injuries are defined, counted and recorded. The administration's forums neglected to address the most important question: how to protect workers from ergonomic hazards in the workplace.

**Sept. 21, 2001**—The administration announces it will postpone the announcement of a plan of action on ergonomics until later in the fall.

**Dec. 31, 2001**—Still no ergonomics plan from the administration. More than 1 million workers suffered ergonomic injuries since the administration killed the ergonomics standard.

**April 5, 2001**—More than a year after repealing the ergonomics standard, the Bush administration announces a meaningless measure that further delays action and provides workers no protection against ergonomic hazards—the nation's biggest job safety problem. The administration's plan is woefully inadequate and serves only the interests of its corporate backers, who are now officially off the hook for protecting workers from ergonomic hazards.

The plan contains no mandatory standard, only a promise to issue *voluntary guidelines*. These guidelines will not be enforced. There is no mention for which industries OSHA will develop guidelines. The other components of the plan include *enforcement under OSHA's general duty clause*, a process used only in rare cases after large numbers of workers have been seriously injured, which is difficult, expensive and can take years to force action; and *compliance assistance*, including training and outreach. These measures have been used for the past 10 years and have failed to protect workers from injuries, such as an unnecessary *Department of Labor Research Advisory Committee* that will provide a forum for those who claim there is no science and repeats the work already done by the National Academy of Sciences and NIOSH. Meanwhile, the administration still refuses to define musculoskeletal disorders (MSDs).

**April 9, 2002**—OSHA announces regional ergonomics coordinators for each of its 10 regional offices. Their stated purpose is to “guide enforcement and outreach efforts.”

**April 18, 2002**—Labor Secretary Elaine Chao announces the first industry-specific guidelines will be developed for the nursing home industry. No specific date is mentioned for release of the guidelines, only that the draft guidelines are expected to be ready for public comment “later this year.”

**May 2, 2002**—*Federal Register* publishes a notice announcing OSHA's intent to establish a National Advisory Committee on Ergonomics and a request for nominations.

**June 10, 2002**—Assistant Secretary of Labor for OSHA John Henshaw announces grocery stores and poultry processing will be the focus of the next two sets of industry-specific guidelines to reduce ergonomic-related injuries. Draft guidelines are expected to be ready for public comment later this year.

**March 13, 2003**—OSHA issues final ergonomic guidelines for nursing homes.

**May 9, 2003**—OSHA issues draft ergonomic guidelines for the retail grocery industry.

**June 4, 2003**—OSHA issues draft guidelines for the poultry processing industry.

**January 27, 2004**—OSHA holds its National Advisory Committee on Ergonomics symposium, “Musculoskeletal and Neurovascular Disorders: The State of Research Regarding Workplace Etiology and Prevention.” Many of the most prominent experts in ergonomics declined to submit presentations to the committee, noting the symposium would simply rehash old research findings. Industry opponents of ergonomics were unhappy the symposium was taking place, claiming the invitees do not have a strong medical background in the field of ergonomics.

## REGULATORY ARENA

**Jan. 20, 2001**—The Bush administration ordered all executive departments to postpone for 60 days the effective date of a wide range of regulations announced by the Clinton administration in its final days. The review gave the Bush administration more time to devise strategies for killing or weakening rules it did not like. It delayed implementation of several important worker protection rules by at least six months.

### Record-Keeping Rule

**July 3, 2001**—The administration proposes to put a one-year stay on specific provisions of the new record-keeping rule. DOL has proposed to stay until Jan. 1, 2003, the definition of musculoskeletal disorder (Section 1910.12), the requirement to identify MSDs on the log of injury and illness and the requirement to record a shift of 10 decibels or more as hearing loss (Section 1910.10), while the department reconsiders these issues. The rest of the revised Occupational Injury and Illness Recording and Reporting Requirements will go into effect as scheduled on Jan. 1, 2002.

The move to change the definition and criteria for identifying and counting MSDs is part of the ongoing industry and right-wing campaign to oppose ergonomic protections. After overturning the OSHA ergonomics standard, opponents want to keep MSDs from being recorded so that the problem will simply disappear. They know as long as 600,000 serious MSDs are reported every year, there will be continued pressure for DOL and employers to act on the problem.

With this action, the Bush administration is joining with the National Association of Manufacturers and other industry groups that want to cover up MSDs caused by ergonomic hazards. With no definition of MSDs or requirement to identify these injuries, no specific data on MSDs will be available on the log or collected by the Department of Labor in its Annual Survey of Occupational Injuries and Illnesses. Even worse, with this action it appears the department is proposing to abandon the definition and criteria it established for recording MSDs more than 10 years ago that have been used in all of OSHA's general duty enforcement cases against ergonomic hazards. If DOL has no definition or criteria for identifying MSDs, it will be impossible for OSHA to enforce against ergonomic hazards under the general duty clause as it has done for more than a decade.

**Oct. 12, 2001**—The administration finalized the one-year stay on the MSD and hearing loss provisions of the record keeping standard.

**July 1, 2002**—OSHA issues a final rule, which revises the criteria for recording work-related hearing loss. The Bush administration's new rule on recording hearing loss allows for significantly more hearing loss to occur before it is initially recorded on the logs. Beginning Jan. 1, 2003, an employer does not have to record hearing loss until a worker has already lost 25 decibels or more of hearing. Once a loss of 25 decibels occurs, each additional shift of 10 decibels must be recorded. Compared to the old record keeping rule prior to January 2001, this is an improvement. However, this change is a marked loss for workers compared to what should have been final as of January 2001. While OSHA never proposed to delay the provision that

required employers to check the hearing loss column on the log in the July 3, 2001, *Federal Register* announcement, a separate *Federal Register* notice also issued on July 1 now proposes to delay the effective date of the hearing loss column until Jan. 1, 2004.

In a separate *Federal Register* notice issued **July 1, 2002**, OSHA proposes to delay the effective date of three provisions (including checking the hearing loss column on the log) of the record keeping rule that were scheduled to take effect Jan. 1, 2003. The first is the definition of musculoskeletal disorder and requires employers to check the MSD column on the OSHA 300 log. The second provision states that MSDs are not considered “privacy concern cases.” The third provision, already mentioned above, requires employers to check the hearing loss column on the 300 logs for cases involving occupational hearing loss.

**June 30, 2003**—After having twice stayed the provisions, the Department of Labor revokes both the requirement that employers identify musculoskeletal disorders on the 300 logs and the definition of MSDs.

## **MSHA**

**May 2001**—The administration announces it is placing an administrative stay on a rule to protect underground metal and nonmetal miners from diesel particulate matter (made final on Jan. 19, 2001). Meanwhile, they let stand a similar rule to protect coal miners’ exposure to diesel particulate matter. After the Steelworkers filed a lawsuit, the Labor Department was able to come to a partial settlement in July 2001.

**Aug. 28, 2001**—The administration extends the comment period on MSHA’s interim final rule on hazard communication. The standard provides mine workers with the right-to-know about toxic chemicals that is similar to protections provided to other workers since 1987. The MSHA Hazard Communication rule was initiated in 1988 and was originally scheduled to go into effect in October 2001. This announcement calls for more public hearings and delays implementation of the rule until June 30, 2002.

**Feb. 27, 2002**—As a result of the first partial settlement on diesel particulates, MSHA issues two *Federal Register* notices, one finalizing a proposal that clarified sections of the maintenance standards and adding a new paragraph regarding the transfer of equipment. The other notice delayed the effective date of a section regarding the evidence and tagging provisions of the maintenance standard and clarified effective dates of certain provisions.

**June 21, 2002**—Final Hazard Communication rule is published in the *Federal Register*. The rule requires mine operators to assess the hazards of chemicals they produce or use, train miners and provide them with information on these hazards. The rule is effective nine months from the date of publication for mines with five or fewer employees and is effective three months from the date of publication for mines employing more than five miners.

**July 17, 2002**—MSHA reaches a second interim agreement with industry and labor concerning the diesel particulate matter standard for metal and nonmetal miners. The effect of the settlement is that MSHA delays the effectiveness of four sections of the standard.

## Regulatory Agenda

**Dec. 3, 2001**—The administration publishes its semiannual regulatory agenda, which sets forth its regulatory priorities and plans for the coming year. The agenda for the Labor Department makes clear the administration is abandoning or delaying action on many important worker protection matters, particularly in the worker safety and health arena. The agency fails to include any action on ergonomics—still the biggest source of job injuries—and withdraws or halts action on dozens of OSHA and MSHA rules.

**May 13, 2002**—The administration publishes its semiannual regulatory agenda, which sets forth its regulatory priorities and plans for the coming year. The Labor Department shows no movement on the regulatory front. Two OSHA standards that were all but complete under the Clinton administration—the Employer Payment for PPE and tuberculosis—are listed as “next step to be determined.” It is clear the administration is not interested in making progress on any important protections for workers.

**Dec. 9, 2002**—The administration publishes its semiregulatory agenda. The Employer Payment for PPE and tuberculosis standards are both relegated to long-term actions on the regulatory agenda. The agency withdrew the important Safety and Health Program rule (Injury and Illness Prevention). The May agenda had shown the rule as slated to go through the SBREFA process in December 2002. OSHA also withdrew the Fall Protection in Construction standard, one of the most important standards for construction workers. The Bureau of Labor Statistics had reported just months before that, “fatal falls in the construction industry increased 13 percent from 2000 levels and accounted for over half of all fatal falls.” MSHA withdrew two important standards, Occupational Exposure to Coal Mine Dust and Mine Rescue Teams.

**May 27, 2003**—The administration published its semiregulatory agenda. This latest agenda states OSHA’s plans to withdraw the tuberculosis standard and the glycol ethers standard from the regulatory agenda. The tuberculosis standard has been through the rulemaking process and was ready for final action when the Bush administration came into office. The protections prescribed in the tuberculosis standard would also protect health care workers from SARS. The other standard to be withdrawn is glycol ethers, which would protect reproductive health.

The Employer Payment for PPE standard, also complete when the Bush administration took office, still sits with the next action to be determined. Meanwhile, thousands of low-wage workers go without needed personal protective equipment.

For all the other standards on the agenda, OSHA has missed deadlines, and timetables for action have been extended despite the administration’s promise that timetables set forth on the pared-down agenda would be met.

Four new standards were added to this regulatory agenda. They are Ionizing Radiation; Procedures for Handling Discrimination Complaints Under Section 806 of the Corporate and Criminal Accountability Act of 2002 (mandated by Congress); Explosives; and Updating OSHA Standards Based on National Consensus Standards.

Reacting to the recent deaths of 14 miners at two underground coal mines, MSHA issued an Emergency Temporary Standard for Emergency Evacuations on Dec. 12, 2002. This is the only addition to MSHA's regulatory agenda, which is currently down to nine standards in various stages of completion. All standards listed on the MSHA regulatory agenda are slated for completion by the end of 2003.

**Dec. 22, 2003**—The administration published its semiregulatory agenda. The Employer Payment for PPE standard, complete when the Bush administration took office, still sits with the next action to be determined. Meanwhile, thousands of low-wage workers go without needed personal protective equipment.

The only standard added to this regulatory agenda is Procedures for Handling Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002 (mandated by Congress). Timelines have already slipped on two of the standards added to the regulatory agenda in May 2003.

For many other standards on the agenda, OSHA has missed deadlines, and timetables for action have been extended despite the administration's promise that timetables set forth on the pared-down agenda would be met.

Some timelines slipped at MSHA, and many of the standards that were expected to be completed by the end of 2003 have been carried over to 2004. MSHA withdrew the Focused Inspections standard. Four new items are now on the regulatory agenda. These include Revising Electrical Product Approval Regulations; High Voltage Continuous Mining Machine Standards for Underground Coal Mines; Training Standards for Shaft and Slope Construction Workers at Underground Mines; and Respirable Crystalline Silica. A notice of proposed regulation is slated for March 2004 as part of the Improving and Eliminating Regulations effort.

### **Indoor Air Quality**

**Dec. 14, 2001**—The Bush administration withdraws its proposed rule on indoor air quality and terminates rulemaking action on the issue. The agency issued a proposed rule in 1994 that addressed exposure to environmental tobacco smoke and indoor air contaminants. The withdrawal came as OSHA faced a Dec. 13 deadline from a federal court to provide a timetable for action in conjunction with a lawsuit by Action on Smoking and Health (ASH) against OSHA for failing to act on an Emergency Temporary Standard (ETS).

From the press release put out by ASH, it appears OSHA threatened that if forced to act, it would put out a weak workplace smoking standard that could pre-empt stronger state and local ordinances. ASH dropped its lawsuit, and OSHA is withdrawing the Indoor Air Quality (IAQ) proposal. In withdrawing the proposal, the agency is claiming the nonsmoking IAQ provisions received little attention and the evidence on these provisions is sparse, which clearly is not true. The unions generated a voluminous record on the IAQ provisions.

### **Process Safety Management Standard**

**February 2004**—The Bush administration’s OSHA has refused to strengthen the rules to prevent chemical explosions. Specifically, OSHA has failed to expand the Process Safety Management standard to cover reactive chemicals. On Feb. 2, the U.S. Chemical Safety and Hazard Investigation Board (CSB)—with three of its four members Bush administration appointees—voted unanimously to declare OSHA’s response “Unacceptable” and urged OSHA to reconsider. During the past 20 years, reactive chemicals have caused explosions and other serious workplace accidents, claiming 167 lives and causing hundreds of millions of dollars in property damage, according to the CSB. The CSB, an independent federal agency that investigates chemical accidents, says reactive hazards exist when a single chemical or a mixture of chemicals has the potential to undergo a violent, uncontrolled reaction when improperly processed or combined. Such chemical reactions can release large quantities of heat, energy and gases, causing fires, explosions or toxic emissions. In 2002, CSB found reactive chemicals posed a “significant safety problem” and recommended OSHA broaden the rules governing chemical safety. Several unions joined in the call for a tougher standard. Instead, OSHA halted work on a new safety standard and announced in 2003 it would rely on voluntary cooperation from the chemical industry to address the problem.

## **FAA/OSHA COVERAGE**

**Sept. 26, 2001**—Nine months after the Federal Aviation Administration (FAA) and OSHA issued a report on the Application of OSHA’s Requirements to Employees on Aircraft in Operations, the Department of Transportation Inspector General finds that under the Bush administration, FAA and OSHA have failed to take any action to adopt safety and health standards to protect aviation workers, including flight attendants.

**June 18, 2002**—The FAA/OSHA Aviation Safety and Health Team issues an Action Plan for Safety and Health in the Aviation Industry that recommends instead of issuing safety and health regulations, that the FAA enter into a voluntary partnership with air carriers to provide voluntary safety and health protections to aviation workers. Under this approach, workers in the aviation industry will have little or no legal safety and health protection since the FAA claimed it has jurisdiction over these matters, thereby preempting OSHA, but has failed to act.

## **BUDGET**

**April 9, 2001**—The administration submits its fiscal year (FY) 2002 budget proposal to Congress. Bush wanted to keep the FY 2002 OSHA budget at the same level of funding it had in FY 2001, effectively reducing its operating budget. The president also proposed to slash money for OSHA training grants by 27 percent, as well as reducing the amount of money available for the agency to work on regulations. The Administration's budget proposal also would have reduced the money available to MSHA for enforcement at coal mines.

Fortunately, the final FY 2002 Labor Health and Human Services (LHHS) bill restored the proposed cuts and increased the OSHA budget by 4 percent from FY 2001 levels and the MSHA budget by 3 percent from FY 2001 levels. Although the administration requested an increase of \$6 million for National Institute for Occupational Safety and Health's (NIOSH's) budget, the final appropriation was an even greater increase of \$16 million higher than the FY 2001 appropriation.

**Feb. 4, 2002**—The administration submits its FY 2003 budget proposal to Congress. The president proposed funding cuts for the nation's worker safety and health programs, including a \$9 million reduction for OSHA, a \$4 million cut for MSHA and a \$28.3 million cut for NIOSH. At OSHA, reductions are targeted at safety and health standards, enforcement and worker training and education, while increases are proposed for compliance assistance and consultation programs for employers. At MSHA, cuts are targeted at coal enforcement at a time when coal-mining deaths have increased for three years straight. While major increases are sought for homeland security and programs to protect the public from bioterrorist attacks, no funds are being sought for OSHA or NIOSH to protect workers from these threats.

### **Blocked Funds to Monitor Health of Sept. 11 Rescue and Recovery Workers**

In August 2002, Bush refused to release the \$5.1 billion Congress approved for supplemental homeland security programs. Those funds included \$90 million to monitor the health of workers who cleaned up the rubble at Ground Zero, as well as \$150 million for equipment and training grants requested by some of the nation's 18,000 fire departments and \$100 million to improve the communications systems for firefighters, police officers and other emergency personnel.

**Feb. 3, 2003**—The administration submits its FY 2004 budget proposal to Congress. The president proposed to fund OSHA at \$450 million, which is less than the \$453.2 million approved by the Congress in the FY 2003 budget. The proposed reductions are targeted at safety and health standard setting and training and education for workers, while increases are proposed for federal compliance assistance. The president's budget would cut 77 positions. At MSHA, the president is seeking a \$4.9 million cut over the current FY 2003 funding levels. For the second year in a row, President Bush has proposed to slash the budget for NIOSH. Under the proposal, NIOSH's budget is cut by \$28.9 million from the FY 2003 funding level of \$274.9 million to \$246.0 million. In addition, the administration fails to request any additional funds in the Centers for Disease Control (CDC) budget to fund programs and activities related to bioterrorism and homeland security. For FY 2004, the budget proposes \$1.1 billion for CDC bioterrorism activities, the same level proposed in FY 2003. No increases in funding is requested to

implement the administration's smallpox vaccination program that calls for the vaccination of 500,000 health care workers and 10 million first responders.

**Feb. 2, 2004**—Overall funding levels proposed for OSHA, MSHA and NIOSH are similar to levels appropriated by Congress for FY 2004. This marks the first budget submitted by President Bush that did not propose reductions in the OSHA and MSHA programs.

However, the FY 2005 budget proposes to increase programs for voluntary compliance and employer assistance, while cutting training and outreach programs for workers and freezing standard setting and enforcement programs. At OSHA, the president proposes to cut worker safety training programs by \$7.1 million or 65 percent and to shift these funds to employer assistance programs. A total of \$125.2 million is proposed for programs to provide compliance assistance to employers, compared with only \$4 million for programs to provide outreach to workers.

In addition, the administration's FY 2005 budget proposes major cuts in first-responder grant funding at the Department of Homeland Security. The request would reduce funding for firefighters by \$250 million from the FY 2004 level.

## TRAINING AND EDUCATION

**April 2001**—The administration withdraws funding for 19 long-term training grants. Grant recipients had received a letter from OSHA on Jan. 4 congratulating them on being chosen for the long-term funding. But a March 29, 2001, letter to the grantees stated, “Because of budgetary circumstances and an evaluation of financial projections for this program, the long-term grant you had applied for cannot be funded.”

OSHA’s fact sheet on the Susan Harwood Training Grants states that “The Susan Harwood Training Grant Program is one of the tools being used by OSHA to achieve its strategic goals” and that the “funds [are] to train workers and employers to recognize, avoid and prevent safety and health hazards in their workplaces.” However, at a May 2 Senate hearing, Secretary Chao stated that the grants were a commitment of three to five years “that this administration was not ready to commit to at this point.”

In April, the administration issued a call for proposals for 12-month training grants. The press release announcing the grants state, “This series of short-term grants supercedes the long-term grants announced by the agency on Jan. 8. Due to budget considerations, the long-term grants could not be funded.”

**Sept. 24, 2001**—The administration notifies recipients of institutional building Harwood training grants that it is cutting the original funding level by 25 percent, just days before the funding year is to begin. Grantees were also informed “in light of the current budget environment and the administration’s budget request, we do not envision continuing the funding on Institutional Competency Building grants beyond this year.”

Fortunately, the money for the grants was restored in the final FY 2002 LHHS appropriations bill, and the Senate conference report includes the following language, addressing the department to restore the cuts in grant funds:

“The Committee believes that OSHA’s worker safety and health training and education programs, including the grant program that supports such training, are a critical part of a comprehensive approach to worker protection. The Committee is concerned that OSHA cut funding to help establish ongoing worker safety and health training programs and has indicated that due to funding cutbacks, such programs would be eliminated in fiscal year 2002. The committee has provided \$3,000,000 in additional funds to restore the institutional competency building training grants.” (Senate Report Language [S. 1536], p. 42)

**Feb. 4, 2002**—The administration’s proposed FY 2003 OSHA budget includes a 64 percent reduction (\$7 million cut) to workers’ safety and health training grants.

**May 21, 2002**—OSHA ignored the Senate’s report language in the FY 2002 LHHS bill and had no plans to continue funding the existing institutional competency building grants. However, they announced a new round of training grants for application for one year of funding due June 21. Current grant recipients, who should have had continuous funding, were forced to reapply for money.

**July 2002**—The House and Senate reach agreement on a FY 2002 supplemental appropriations bill, which mandates that \$3.2 million of FY 2002 funds must be spent to continue funding Susan Harwood Institutional Competency Building Grants. It also includes report language stating that OSHA has agreed to fund existing targeted training grants initiated last year for a second year.

**Feb. 3, 2003**—The administration’s proposed FY 2004 OSHA budget again includes a 64 percent reduction (\$7 million cut) to workers’ safety and health training grants.

**June 26, 2003**—The Senate Appropriations Committee restores funding for the grants, and Senate conference report includes the following language, addressing the department to restore the cuts in grant funds:

“The Committee believes that OSHA’s worker safety and health training and education programs, including the grant program that supports such training, are a critical part of a comprehensive approach to worker protection. The Committee is concerned that OSHA has again cut funding to help establish ongoing worker safety and health training programs and has provided \$7,175,000 in additional funds to restore the Susan Harwood training grant program to \$11,175,000. Bill language specifies that no less than \$3,200,000 shall be used to maintain the existing institutional competency building training grants, provided that grantees demonstrate satisfactory performance.” (Senate Report Language [S. 1356], Report [108-81])

**Feb. 2, 2004**—The administration’s proposed FY 2005 OSHA budget again includes a 65 percent reduction (\$7.1 million cut) to workers’ safety and health training grants.

## NOMINEES

**April 30, 2001**—President Bush nominates one of the chief architects and leaders of the business community’s campaign to prevent OSHA from issuing an ergonomics standard —Eugene Scalia—to be the Solicitor of Labor. The Solicitor of Labor is widely recognized as the third-most powerful position within the Department of Labor and is the chief lawyer in charge of enforcing numerous worker protections, most of which Eugene Scalia has spent years fighting.

In addition to fighting the federal ergonomics standard, Scalia was also instrumental in the campaigns against ergonomics standards in California, Washington and North Carolina. Ergonomic hazards result in more than 600,000 serious injuries each year, but Eugene Scalia does not believe that these injuries are real. According to Scalia, “A first and most basic problem with ergonomics is that leading physicians and medical organizations dispute that repetitive motion injuries actually occur.” He has called the science on ergonomics “junk science” and “quackery.”

Working men and women depend on the Department of Labor to implement and enforce the nation’s worker protection laws. They need a solicitor of Labor who believes in these laws and who will vigorously enforce them, not one who will simply pander to industry’s wishes.

**Jan. 11, 2002**—With the Senate out of session, Bush used a recess appointment, which prevents Congress from voting on the nomination, to maneuver Scalia into the Labor Department post where he must enforce workplace safety, wage and hour, pension security and other vital working family protections. Scalia’s recess appointment lasts until Congress recesses at the end of 2002.

**Nov. 11, 2002**—President Bush designates Scalia as Acting Solicitor of Labor following the Senate’s recess and expiration of his recess appointment.

**Jan. 6, 2003**—Eugene Scalia steps down as Acting Solicitor of Labor.

**Oct. 8, 2003**—President Bush announces his nomination of Gary Visscher to serve as a member on the Chemical Safety and Hazard Investigation Board. Visscher is currently the deputy assistant secretary for OSHA. He previously served as vice president of employee relations for the American Iron and Steel Institute and served as a member of the Occupational Safety and Health Review Commission. However, Visscher has no technical expertise in the area of chemical safety. The Clean Air Act provisions creating the board require board members be appointed on the basis of technical qualification, professional standing and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology or air pollution regulations. Visscher does not meet these requirements.

## MISCELLANEOUS

### Compensating Workers

**March 2001**—Bush’s secretary of labor, Elaine Chao, supports a move that would weaken the program that compensates workers who suffer from illnesses they acquired building and maintaining the U.S. nuclear arsenal. Chao wants to shift the running of the Energy Employees Occupational Illness Compensation Act from her department to the Justice Department. This could mean that it will take much longer for workers to get their compensation benefits because the Justice Department doesn’t have enough staff to administer the claims and it historically has fought these same workers when they filed claims for these diseases under state workers’ compensation. In **April 2001** Secretary of Labor Chao reverses her position and decides to keep the Energy Employees Occupational Illness Compensation Program in the Labor Department.

### Cross Border Trucking

**June 5, 2001**—Bush ordered his Department of Transportation to begin processing applications that will grant operating authority to Mexican firms to provide truck and bus service throughout the United States. While the firms would have to attest to the safety of those trucks, as long as 18 months could elapse before the Federal Motor Carrier Safety Administration completes a thorough safety audit of the carriers. The North American Free Trade Agreement (NAFTA) mandated an end to restrictions on cross-border truck and bus service. But in 1995, the United States, citing safety concerns with Mexican vehicles, issued a moratorium on allowing the trucks and buses into the country. A NAFTA dispute panel ruled the ban violated the trade agreement. On June 26, the U.S. House of Representatives voted to block unregulated Mexican trucks from operating in the United States.

### Shutting Out Labor

**Dec. 3, 2002**—The Bush administration announced formation of a national advisory committee on ergonomics to study causes and methods to prevent workplace ergonomic injuries that hurt some 1.8 million workers a year. But for the first time in OSHA’s 32-year history, a workplace safety advisory committee did not contain an equal number of union and management representatives. Two union safety staff members were appointed, compared with seven management representatives. The Bush administration also has formed several “alliances” in specific industries, such as meatpacking, airlines, printing and others, to study workplace safety, but none of those alliances include union or worker representatives. In fact, many of the corporations tapped to serve on the ergonomics advisory board and the alliances opposed creation of a federal ergonomics standard to prevent workplace repetitive motion injuries and were instrumental in the law’s repeal when Bush took control of the government.

**Dec. 31, 2002**—The Bush administration’s Department of Labor reversed more than 30 years of practice and closed the nomination process for the National Advisory Committee on Occupational Safety and Health (NACOSH) and on Dec. 31, 2002, announced the appointment of three new members. Since the Occupational Safety and Health Act of 1970 established the committee, nominations have been open to the public to ensure a wide range of groups is

represented on NACOSH. Five sitting committee members, including representatives from the AFL-CIO and the Steelworkers, were dropped from NACOSH.

### **Smallpox Vaccines**

**December 2002**—Bush announced a plan in December to vaccinate health care workers and other first responders, such as firefighters and police officers, against smallpox. But while the plan protects drug companies that produce the vaccine from liability, it fails to protect workers from risks associated with the vaccine. The vaccine is risky for one in six Americans who are pregnant, suffer from eczema or other skin disorders or whose immune systems are suppressed because of such conditions as HIV, cancer or transplant treatments, according to the CDC. Other recent studies show one in three workers who get the vaccine will suffer side effects that will make them too sick to work for several days. The president's plan provides inadequate screening to determine who may be at risk and fails to protect against loss of income for those who become too ill to work or provide workers' compensation for those who become disabled from the vaccine.

### **Misrepresenting the Facts**

**August 2003**—In the days immediately after the Sept. 11, 2001, terrorist attacks that destroyed the World Trade Center, the Bush White House pressured the Environmental Protection Agency (EPA) to tone down reports about potential health hazards resulting from the buildings' collapse, according to a report by the EPA's inspector general. Thousands of emergency workers and construction workers toiled months at the site and residents and workers returned to their homes and jobs believing it was safe to do so. The report, issued Aug. 18, notes all EPA statements about the disaster and clean-up were required to be approved by the National Security Council via the White House Council on Environmental Quality. The report says EPA was pressured by the White House to omit cautions about hazards from air pollutants such as lead, cadmium and asbestos and smoke from fires, some of which burned for four months. A Sept. 18, 2001, EPA announcement reported the air around the World Trade Center was safe to breathe, but the inspector general's report says EPA "did not have sufficient data and analysis to make such a blanket statement."

**January 2004**—The Bush administration's 2003 report on mining fatalities reports deaths in the nation's mines fell by 18 percent, but the report downplays the fact coal mining deaths actually increased by 7 percent. The drop in mine fatalities occurred in metal and nonmetal mines, not in coal mines where the death rate increased, according to MSHA. Coal miners were more likely to die on the job in 2003 than in 2002, MSHA's figures reveal. In 2003, 29 coal miners were killed on the job, 27 died in 2002.

### **Blatant Disregard for Worker Health**

**October 2003**—The Bush administration's OSHA has refused to order blood tests for hundreds of its active and retired inspectors who may have been exposed to the toxic metal beryllium, one of the agency's own regional administrators says in a complaint filed Oct. 9 with the U.S. Office of Special Counsel. Metal beryllium is believed to cause a fatal lung disease. The administrator,

Dr. Adam Finkel, said as many as 500 OSHA workers may have been exposed to the metal during inspections of plants where it is used. Metal beryllium is used in many industrial and consumer products, including nuclear weapons and electronics. The nonprofit group Public Employees for Environmental Responsibility filed the complaint on behalf of Finkel.

**November 2003**—The Bush administration, in November 2003, failed to alert postal employees they may have handled a package of the deadly poison ricin. News reports revealed in February a letter was mailed to the White House from a Chattanooga, Tenn., post office. The letter was intercepted at an offsite White House mail sorting facility in the Washington, D.C., area and contained a powdery substance that tests indicated was ricin. The November incident came to light in February after it was discovered ricin had been sent to the office of U.S. Senate Majority Leader Bill Frist (R-Tenn.). Several Senate office buildings were then closed as a precaution while tests were conducted. According to *The Washington Post*, the Secret Service did not notify the FBI, the U.S. Postal Inspection Service or other federal agencies about the November ricin discovery until six days after the letter was intercepted. In 2001, after a series of anthrax mailings led to the deaths of five people, including two Postal Workers members, unions and other groups said the Bush administration was not forthcoming or timely with information about the attacks, the health risks and the cleanup of postal facilities.

### **Department of Energy Lets Contractors Self-Regulate**

**Dec. 8, 2003**—The Bush administration proposes shielding private contractors that operate federal nuclear weapons plants and nuclear research facilities from government safety standards by allowing those private contractors to write their own safety rules. There are some two dozen U.S. Department of Energy contractor facilities exempt from workplace health and safety standards established and enforced by OSHA and instead subject to Energy Department oversight. During the Clinton administration, the Energy Department issued guidelines calling for contractors to establish health and safety programs that followed OSHA standards. In 2002, Congress passed bipartisan legislation requiring the Energy Department to develop enforceable nuclear facilities health and safety regulations offering the same safety standards as under OSHA. But the Bush administration's Energy Department proposed rules call for the contractors to develop their own safety and health standards and allow those contractors to decide on a case-by-case basis which rules should be followed. "The decision making will largely be in the hands of contractors to decide what protections are appropriate. It's the fox guarding the hen house," says Rep. Ted Strickland (D-Ohio). Sen. Jim Bunning (R-Ky.), who helped write the 2002 legislation, says the Bush administration plan "will likely decrease worker protection." On **Feb. 23, 2004**, the Energy Department announced it was suspending its rulemaking on the proposed safety rules.

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