

110TH CONGRESS  
1ST SESSION

# H. R. 2693

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## 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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