The Toll Of Neglect

The Bush administration has refused to address regulatory gaps, take on new emerging problems, or strengthen existing health, safety and environmental standards. Since President Bush took office, the Department of Interior, OSHA, and the Mine Safety and Health Administration have not completed a single significant protective standard. As discussed in the previous chapter, legal requirements have forced EPA to take significant action on several occasions, but those standards were always watered down to industry's liking.

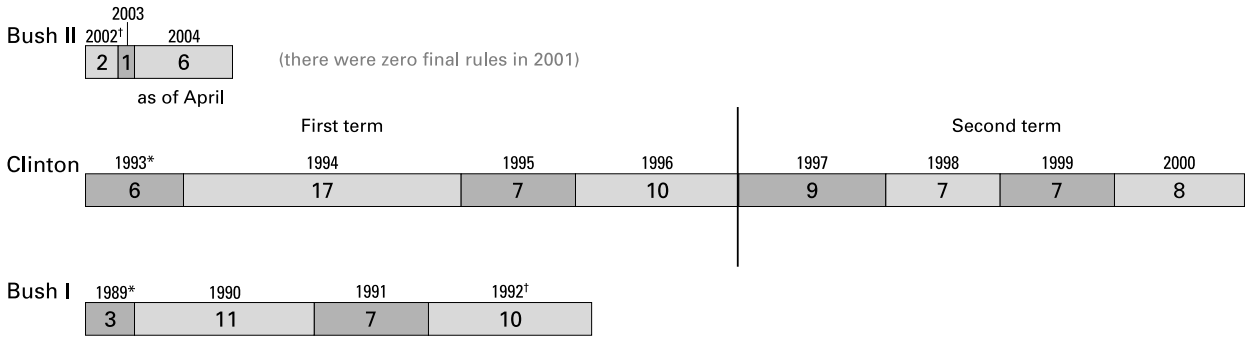
At the end of the Clinton administration, there were a number of important new standards still in development. This included, for instance, standards to clamp down on air pollution in national parks, prevent workplace Tuberculosis and exposure to crystalline silica, and limit head and neck injuries in automobile crashes. None of these standards have been moved forward to completion. In fact, through the Bush administration's first two years, EPA completely abandoned 62 Clinton-era rulemakings, while OSHA and FDA dropped work on 21 and 57 respectively.[1] Such stagnation is unprecedented. As noted in the introduction, we have made substantial progress on public health, safety and the environment over the last 30 years. This has happened because we have been willing to build on past successes and resist complacency. The Bush administration has halted this progress and turned a blind eye to some of the nation's most pressing problems.

For example, nothing has been done to improve safety at chemical plants, which are considered potential terrorist targets. Fuel efficiency standards for passenger cars remain unchanged, cementing our dependence on foreign oil. Workers continue to die from an array of preventable hazards, including the cancer-causing hexavalent chromium. There is no testing for E. coli 0157:H7 in beef carcasses even though tens of thousands have suffered life-threatening illness from the bacteria. And traffic fatalities are soaring because of SUV rollovers, which have killed thousands over the last decade.

Of course, corporate interests, chiefly interested in the bottom line, oppose regulatory standards to address these problems. Yet consider where we would be if corporate interests had always gotten their way. Industry strongly opposed removing lead from gasoline, setting *any* fuel efficiency standards, cracking down on vinyl chloride in the workplace, and acting to reduce CFCs, just to name a few examples.

In these cases, the public interest won out over the special interests, and the country moved forward as a result. The Bush administration has flipped this formula, and now we're headed in reverse. The following list details just a few problems that are being ignored.

EPA Output of Significant Rules (1989-2003)[2]



Source: Office of Management & Budget *excludes January of that year † includes January of the following year

The Bush EPA has advanced few "economically significant" standards – defined as those with an estimated total impact, including benefits, of at least $100 million per year. These are the regulations that have broad application and usually draw industry opposition. Many of the Clinton-era rules that the Bush administration rolled back were economically significant, including OSHA's now-repealed ergonomics standard and HHS's now-weakened medical privacy protections.

Of the eight economically significant rules completed during the first three years and four months of the Bush administration, one rolled back restrictions on power-plant emissions as discussed in Chapter I, and the other seven were required by judicial order; as discussed in Chapter II, most of these were watered down to industry's liking, including rules on snowmobile emissions, fish killed by power-plant cooling systems, factory farm runoff, and several rules on industrial air pollution. By contrast, as the chart shows, EPA completed 30 economically significant standards over the first three years of the Clinton administration and 21 over the first three years of the Bush I administration.

Security

Chemical Plant Safety

Perhaps nothing better illustrates the Bush administration's fealty to corporate interests than its refusal to address the possibility of a terrorist attack on a U.S. chemical plant.

One hundred twenty-five facilities have a "vulnerability zone" encompassing more than one million people who could be killed or injured in the event of a chemical accident or terrorist attack; about 700 facilities put more than 100,000 people at risk; and roughly 3,000 facilities put at least 10,000 people at risk.[3] All told, one in six Americans lives in a vulnerable zone.

Yet disturbingly, no federal law regulates these vulnerability zones in terms of size, chemical intensity, or population at risk. Companies are not even required to assess and consider inherently safer methods of operation.

Sen. John Corzine (D-NJ), in early 2002, introduced legislation that would take this basic, common sense step. However, the Bush administration fiercely resisted and, as urged by the chemical industry, instead backed a legislative smokescreen put forth by Sen. James Inhofe (R-OK) – which most egregiously, would exempt facilities that participate in voluntary industry-sponsored security programs from the bill's very mild requirements.

Such voluntary programs have been woefully ineffective. Industry lobbyists tout the "Responsible Care Program," launched in 1988 by the chemical manufacturers' trade association[4] in the aftermath of the catastrophic explosion at a Union Carbide plant in Bhopal, India, which killed 2,000

What's Good for Washington, D.C...

For years, the Blue Plains Wastewater Treatment Plant in Washington, D.C., stored deadly chlorine gas in 90-ton rail cars. A rupture of just one of these rail cars would have put 1.7 million people at risk, covering the White House, Congress, as well as Bolling Air Force Base.

These risks had been known for almost two decades, prompting repeated complaints from the Dept. of Defense and the City of Washington – which commissioned a study in 1991 that recommended bleach as a safer substitute for the more dangerous chlorine. Yet the Blue Plains facility refused to change, no government action was taken, and the danger persisted.

Then came 9/11. Suddenly, the threat of a terrorist attack on the plant, setting off a deadly release of chlorine, became very real. Indeed, the Washington Post reported that trade publications from the U.S. chemical industry were found in a hideout of Osama bin Laden.[5] In short order, the Blue Plains facility removed its 90-ton rail cars, and began to use sodium hypochlorite bleach, which does not have the potential to drift off-site, as a substitute for chlorine (at an expected annual cost of just 25 to 50 cents per customer[6]).

The possibility of a catastrophic accident should have been frightening enough to prompt the switch. On average, there are over 60,000 chemical accidents a year, resulting in more than 250 deaths and thousands of injuries.[7] In the summer of 2001, for instance, a 25,000-gallon rail-car holding methyl mercaptan – which can cause paralysis, severe breathing problems, and death – caught fire at Atofina Chemical Plant in Riverside, Mich., killing three workers and forcing the evacuation of about 2,000 residents, many of whom complained of a burning sensation in their throats, stinging eyes, itchy skin, headaches and nausea.

Unfortunately, Blue Plains is still the exception. Chemical facilities have been very slow to shift to safer substitute chemicals, such as bleach, or to store hazardous materials in safer, smaller volumes, and amazingly – yet perhaps not surprisingly given the track record – the 9/11 attacks have not led to broad efforts to reduce chemical hazards.

Instead, chemical manufacturers have focused almost exclusively on site security, which nonetheless remains woefully inadequate. A fact sheet from the Working Group on Community Right-to-Know provides excerpts from a host of news stories about security lapses since 9/11.[8] For instance, according to an investigation of facilities in western Pennsylvania conducted by the Pittsburgh Tribune-Review (published April 7, 2002), "The security was so lax at 30 sites that in broad daylight a reporter – wearing a press pass and carrying a camera – could walk or drive right up to tanks, pipes and control rooms considered key targets for terrorists."

Previously, a 1999 report from the Agency for Toxic Substances and Disease Registry noted that "security at chemical plants ranged from fair to very poor" and that "security around chemical transportation assets ranged from poor to non-existent."[9] Yet it wasn't until Oct. 23, 2001, that chemical industry trade associations issued voluntary guidelines for greater site security to prevent against terrorist attacks[10] (years after they first raised the possibility of terrorism as a reason to restrict data on chemical hazards as discussed on page 98). These guidelines virtually ignore the issue of reducing the hazards themselves. Indeed, with the Bush administration unwilling to force the issue, the danger presented by chemical facilities is virtually unchanged since the day after 9/11.

and injured 300,000. However, this voluntary program provides for no measurable goals, timelines or means of independent validation for reducing chemical hazards.[11]

In early 2003, Inhofe's industry-backed bill was voted out of committee on a party-line vote, but fearful of potential embarrassment, the Senate's Republican leadership has not brought it up for a floor vote. That seems just fine for the Bush administration, which already has necessary legal authority to act though regulation. The administration unfortunately seems more concerned with protecting the chemical industry than the American public.

Fox In the Henhouse

Carolyn Merritt, chair of the Chemical Safety and Hazard Investigation Board (CSB)

In this role, Merritt is supposed to promote the prevention of chemical accidents by conducting research and advising industry and key agencies, such as EPA. Previously, Merritt worked for the Tennessee Chemical Company, and most recently (from 1994 to 2001) served as senior vice president of environment, health and safety at IMC Global Inc., the world's largest producer of fertilizer and animal feed ingredients and one of the country's biggest toxic polluters. (In 2003, IMC Global settled a $6.3 million lawsuit by the residents of Arkwright, S.C., over pollution of the town's air, soil, and water by a fertilizer plant that the company abandoned in 1986 and failed to clean up.)

Despite her background, however, it should be noted that Merritt advised OSHA to implement stronger standards for reactive chemicals – which not surprisingly the agency ignored (as discussed on page 66).

Nuclear Plant Safety

In recent security tests, mock terrorists were successful an amazing 46 percent of the time at penetrating areas of nuclear power plants where an act of sabotage could have led "in many cases to a probable radioactive release," according to the Nuclear Regulatory Commission. Even more amazing, these plants knew the mock attacks were coming and still couldn't stop them. "The power plants quite literally get the snot kicked out of them," according to Ron Timm, president of RETA Security Inc. and consultant to the Department of Energy.[12]

Unfortunately, the Bush administration has followed the advice of the nuclear industry, which has long fought tighter security standards, and neglected to take the necessary steps to correct this problem – despite the potentially catastrophic consequences.

As Danielle Brian, executive director of the Project on Government Oversight, described the threat to Congress, "A terrorist group does not have to steal nuclear material, create a nuclear device, transport it to the United States and detonate it in a major city. They could simply gain access to the material at a U.S. nuclear facility – some of which are near large metropolitan areas – and tests have shown they could accomplish the same outcome."

In May 2003, the NRC issued new security standards for nuclear power plants – which were developed in secret with the exclusive consultation of the nuclear industry – that reportedly fall far short of what's needed (they have not been released to the public).

The standards outline the most likely terrorist attacks against reactors, referred to as the "design basis threat," specifying the number of attackers and the type of weapons nuclear plants are required to defend against. Before 9/11, plants were required to prepare for just three modestly armed attackers, aided by an insider, who enter the plant together from a single location. Industry sought to stop significant changes to this rosy assumption, and in the end supported the Bush administration's action.

"They did it totally backwards," said Peter Stockton, a senior investigator with the Project on Government Oversight and former Department of Energy consultant. "You figure out what a credible threat is to a nuclear power plant, and then you size your guard force to meet that threat."[13] Instead, the administration (which made the expansion

of nuclear power a key feature of its energy plan) tailored its standards to what the nuclear industry said it could afford.

"The new rules may be a reaction to 9/11, but the commission doesn't seem to have learned the lesson of those attacks – not a thing will be done to reduce the vulnerability of reactors to strikes from the air," Bennett Ramberg, a former analyst at the State Department and author of "Nuclear Power Plants as Weapons for the Enemy," wrote in a New York Times op-ed.[14]

Meanwhile, NRC inspections of nuclear plants have also been remarkably lax. Among other things, "NRC inspectors often used a process that minimized the significance of security problems," and mock terrorist exercises were made easier for plants and did not duplicate "the real-life threat," according to a 2003 report by the General Accounting Office.[15]

Clean Air

Fuel Efficiency

After dragging its feet for two years, in April 2003, the administration issued a new – but unfortunately, weak – fuel efficiency standard for light trucks and SUVs that will achieve only minimal pollution reductions (and not surprisingly, was supported by the auto industry).

The action increased fuel economy for such vehicles by a mere 1.5 miles per gallon (mpg), from 20.7 mpg today to 22.2 mpg by 2007 – well below what is technologically feasible. (Congress had previously blocked the Clinton administration from updating its 1996 standards.)

At the same time, the administration also strongly opposed a 2002 proposal offered by Sens. John Kerry (D-MA) and John McCain (R-AZ) that would have raised fuel economy for passenger cars from 27.5 mpg to 35 mpg by 2015. In fact, the administration has made no move to increase fuel efficiency standards for passenger cars, which have not been raised in 18 years.

Air Pollution in National Parks

Power-plant pollution has covered our national parks and wilderness areas with a thick, whitish haze. In the Great Smokey Mountains and Shenandoah National Parks, for instance, summertime visibility is about one-eighth what it would be without this pollution, while in the West, visibility in protected areas has been reduced from up to 140 miles to about 35-90 miles.

On July 1, 1999, the Clinton administration adopted "regional haze" standards to address this problem, demanding pristine air quality in 156 national parks and wilderness areas by 2064 – to be achieved through a 15 percent reduction in haze every 10 years. Under this standard, all power plants that contribute to impaired visibility in these areas are required to install "best available retrofit technology" (BART) starting in 2012.

As part of this standard, EPA committed to set new BART guidelines that inform states, which are in charge of implementation, how to determine which power plants should be retrofitted with modern pollution controls. Without these guidelines, states cannot begin to implement the regional haze standards.

In January 2001, EPA was set to propose new BART guidelines, but the Bush administration blocked this action upon

Fox In the Henhouse

Spencer Abraham, secretary of Energy

In 2000, Michigan voters denied Abraham re-election to the U.S. Senate. During that campaign, he raked in more than $700,000 from the automotive industry (including General Motors, Ford, DaimlerChrysler, and Lear Corp.) – tops among all federal candidates.[16] At Energy, Abraham has returned the favor, declining to impose strong fuel efficiency standards.

In fact, there is question whether Abraham believes Energy has any important purpose at all. As senator, Abraham co-sponsored legislation to abolish the department, a position he recanted at his January 2001 Senate confirmation hearing.

taking office and subsequently proposed weaker guidelines on July 20, 2001.[17] Slightly less than a year later, this proposal was called into question when the D.C. Circuit Court of Appeals vacated part of EPA's 1999 regional haze rule – a decision strongly disputed by environmentalists.

In response, EPA went back to the drawing board and on April 15, 2004, proposed revised BART guidelines and changes to the haze standards. (EPA was required to propose BART guidelines by this date as part of a legal settlement with Environmental Defense; final guidelines are due by April 15, 2005.) However, this proposal may never actually be implemented.

On Jan. 30, 2004, EPA proposed a new rule on interstate transport of power-plant emissions modeled after President Bush's feeble "Clear Skies Initiative." In the preamble of the BART proposal, EPA indicated that this rule may be used as a substitute for regional haze standards, even though EPA's own analysis demonstrates that it would have little impact on haze. According to EPA, the Clear Skies approach would improve visibility in the East by only 2-4 miles[19]; current visibility is impaired by as much as 80 miles on the haziest days.

John Stanton, senior counsel at the National Environmental Trust, called the administration's BART proposal "a step in the right direction if it wasn't stillborn."[20]

What About Diesel?

When confronted with the Bush administration's abysmal environmental record, the president's defenders invariably point to EPA's proposal[18] to reduce harmful emissions from non-road diesel engines used in construction, agricultural and industrial equipment, which account for almost one-fourth of the country's total emissions of nitrogen oxides.

This indeed would be a significant step forward, preventing more than 9,600 premature deaths annually by 2030, according to EPA. However, at this point it is just a proposal. EPA solicited public comments in the spring and summer of 2003, and has not moved to finalize the rule. The worry is that this is more about election-year politics. Should the president win re-election, EPA could ultimately choose to back off or water down the rule, as industry would like. In the meantime, the president is claiming credit for something that hasn't actually happened.

Clean Water

Sewer Overflows

The Bush administration has delayed issuing new standards to prevent sewer overflows. In the meantime, more than a trillion gallons of untreated sewage has poured into U.S. waterways as a result of the problem, and Americans are still denied even rudimentary public notice of such contamination in the waters where they swim and fish.

In January 2001, at the end of the Clinton administration, EPA proposed standards that would mandate improved sewer capacity, operation, and maintenance, and require that sewage systems notify the public and public health authorities when overflows occur. These proposed regulations were based on the consensus recommendations, developed over five years, by a federal advisory committee, which included sewer operators. However, upon taking office, the Bush White House froze the Clinton sewer proposal, and more than three years later, no action has been taken.

During this time, EPA has conducted a behind-closed-doors "internal review" on how and whether to draft a Bush version of the standards. Unfortunately, the Association of Metropolitan Sewerage Agencies, the trade association for sewage operators, appears to have the ear of the administration. Citing costs, this group has argued against the Clean Water Act's requirement that all sewage be treated before it is discharged.[21]

Each year, the U.S. experiences about 40,000 overflows of raw sewage and garbage – such as syringes, toxic industrial waste, and contaminated storm water –

into rivers, lakes, and coastal waters, and about 400,000 sewage backups pollute the basements of American homes. The vast majority of these overflows, if not all of them, are preventable.

Atrazine

EPA will continue to allow widespread use of the weed killer atrazine despite evidence that it has contaminated certain drinking water systems at levels 12 times greater than allowed by law.

In January 2003, EPA completed an assessment of atrazine, the most heavily used herbicide in the United States, and found that numerous communities have dangerous levels in their water. Nonetheless, the agency ignored calls for a ban on the product – which studies have linked to cancer in both humans and animals – and instead entered into an agreement with Syngenta, the largest manufacturer of atrazine, in which the company committed to perform increased testing of raw water entering community water systems where atrazine is used.

Syngenta already monitors water for atrazine, yet nearly 200 community water systems, serving more than 3.6 million people, have shown levels of atrazine close to or above the legal limit.

"We're flabbergasted," said Jennifer Sass, a senior scientist at the Natural Resources Defense Council. "We've reviewed the science on atrazine, and it is clear that it is dangerous at levels the EPA says are harmless."

EPA performed its assessment of atrazine, which is used mainly on corn, sugarcane and residential lawns, as the result of a lawsuit filed by NRDC.

Foxes In the Henhouse

Adam J. Sharp, EPA's associate assistant administrator for the Office of Prevention, Pesticides, and Toxics

Sharp's office oversaw EPA's decision to allow continued use of atrazine. Previously, Sharp worked as director of governmental relations and regulatory affairs at the American Farm Bureau Federation,[22] which opposed a phase out of Atrazine. There, he focused on environmental law and regulation, pesticides, air quality and biotechnology issues, and testified before Congress in opposition to new air quality standards for the agriculture industry.[23]

Linda J. Fisher, former deputy administrator of EPA

From 1995-2000, Fisher was a top lobbyist for Monsanto, which manufactures atrazine, representing the company's agriculture, biotech, pharmaceutical, environment, finance, and trade interests.[24] Fisher also managed Monsanto's PAC and political contribution funds,[25] dolling out $133,000 to Republican candidates and committees from 1995-2000.[26]

Before Monsanto, Fisher worked at EPA during the Reagan and Bush I administrations (from 1983-1993), eventually heading EPA's Office of Prevention, Pesticides, and Toxic Substances, where, in 1992, she eliminated field tests to measure the impacts of pesticides on wildlife without providing any opportunity for public comment.[27] Fisher resigned unexpectedly in June 2003, shortly after the resignation of EPA Administrator Christine Todd Whitman.

Worker Health & Safety

Protections for Miners

In September 2002, the Bush administration stopped work on a proposed air quality standard to protect underground coal miners, drawing a strong rebuke from the U.S. Court of Appeals for the District of Columbia.

Upon making this decision, the Mine Safety and Health Administration explained that it simply "was the result of changes in agency priorities." However, the United Mine Workers of America (UMWA) countered with a lawsuit that argued the administration could not just drop an ongoing rulemaking without a full and open justification.

The appeals court agreed, finding that the administration's action was "arbitrary and

capricious" and that MSHA's explanation was "not informative in the least." Judge Douglas H. Ginsberg wrote, "Although MSHA's publication of the proposed Air Quality rule certainly did not obligate it to adopt that rule (or, for that matter, any rule), the agency was not free to terminate the rulemaking for no reason whatsoever."

If adopted, the standard would require new measures to control hazardous substances, setting exposure limits and testing requirements, and strengthen existing respiratory protections, which have not been updated since 1972.

"Recent science is showing us that the exposure limits to many of the hazardous chemicals and airborne particulates that this rule would have addressed are currently not sufficient to adequately protect a miner's health," said UMWA International Secretary-Treasurer Carlo Tarley. "Miners have waited more than three decades for new air quality standards, and we are tired of waiting. The UMWA is very pleased that the Court agreed with us that MSHA should not have stopped this important new rule for the inadequate reason it did."[28]

Of course, this also calls into question Bush decisions to abandon a host of other rulemakings. For most of these actions, the administration offered virtually no explanation, which has now been found to be illegal.

Reactive Chemicals

The Bush administration has failed to adequately protect workers and communities from the dangers of reactive chemicals.

Spurred by a series of accidents, the U.S. Chemical Safety and Hazard Investigation Board (CSB) recently undertook an extensive study of current regulations governing reactive chemicals. The results of this examination (issued in an October 2002 report) found that reactive chemical incidents occur over a wide range of worksites and are a "significant chemical safety problem," which "can severely affect workers and the public, as well as cause major economic losses and environmental damage."[29]

The CSB called on OSHA to "amend the Process Safety Management Standard (PSM) to achieve more comprehensive control of reactive hazards that have caused numerous catastrophic incidents and killed scores of workers over the past two decades."[30]

Unfortunately, the Bush administration has refused to act. In 2002, OSHA stopped work on a reactive chemicals rule, and in 2003 OSHA announced that it would address the problem solely through outreach and voluntary programs with the chemical industry. In February 2004, the CSB called this response "unacceptable."

Tuberculosis in the Workplace

The Bush administration has abandoned standards to protect workers from tuberculosis (TB) – a contagious and potentially lethal airborne disease that tends to affect those with more vulnerable immune systems.

OSHA first proposed tuberculosis standards in October 1997 during the Clinton administration, and has sought public comment on the issue a number of times in subsequent years. Meanwhile, the number of TB cases increased in 20 states between 2000 and 2001.[31]

The proposed standards would have required employers to protect workers from TB in hospitals, homeless shelters, nursing homes, and other high-risk facilities through the use of specially ventilated isolation rooms and other control measures; this would also protect against other airborne diseases, such as Severe Acute Respirator Syndrome (SARS). Upon issuing its proposal, OSHA estimated the standards would save more than 130 lives per year, and protect an estimated 5.3 million workers in more than 100,000 work settings with a significant risk of TB infection.

Despite these potential benefits, the Bush administration has closed the door on the issue, announcing in May 2003 that it does not intend to move forward.

Exposure to Silica

Silicosis, a disease resulting from the inhalation of silica dust (the most common mineral in the earth's surface), caused or

contributed to 13,744 deaths in the United States between 1968 and 1990, according to the American Public Health Association. At special risk are rock drill operators working on surface mines or highways, construction workers who use sand in abrasive blasting, and foundry workers who make sand castings.

Silicosis is entirely preventable with the implementation of conventional public health methods, including the use of less hazardous materials, dust suppression techniques, improved ventilation, and respirator use. However, these preventive measures are under-utilized, and the problem remains.

The National Institute for Occupational Safety and Health has recommended exposure limits that are much lower than current standards, but the Bush administration has failed to act. As a result, this preventable disease will continue to sicken and kill workers.

Hexavalent Chromium

The Bush administration has failed to lower the permissible exposure limit for hexavalent chromium, a dangerous lung carcinogen, despite the fact that hundreds of workers die prematurely of lung cancer due to exposure. OSHA estimates that approximately one million workers are exposed to hexavalent chromium, which is used in chrome plating, stainless steel welding, and the production of chromate pigments and dyes. As many as 34 percent of workers could contract lung cancer if exposed at OSHA's current limit for hexavalent chromium for eight hours a day over 45 years, according to a study conducted for OSHA in 1995.[32]

Recognizing the administration's negligence, a U.S. appeals court, in April 2003, ordered OSHA to issue a new hexavalent-chromium standard no later than Jan. 18, 2006 (a proposal must be issued by Oct. 4, 2004).

Payment for Personal Protective Equipment

Some OSHA rules explicitly require that employers pay for safety equipment that employees must wear; others do not. Previously, this didn't matter; OSHA required employers to pay for mandatory Personal Protective Equipment (PPE) whether explicitly called for by a rule or not. However, the courts recently struck down this interpretation.

Workers – particularly low-wage immigrant workers who work in the most dangerous jobs – are in great need of a rule clarifying the PPE issue. When workers are left to supply their own equipment, they often purchase gear that is used or less protective, compromising their own health and safety. Employers rather than employees are in the better position to properly select and maintain safety equipment.

In March 1999, the Clinton administration issued a proposed rule requiring employers to pay for all PPE, but the Bush administration has refused to finalize the standard, leaving workers vulnerable to occupational injury, illness and death.

Metalworking Fluids

Metalworking fluids – used mainly for their cooling, lubricating, and corrosion resistant properties during machining operations – include a complex mixture of oils, detergents, lubricants, and other potentially toxic ingredients. These fluids can cause substantially elevated risk of cancer of the pancreas, bladder, larynx, scrotum and rectum, according to a number of epidemiological studies, as well as skin problems, such as contact dermatitis, and various respiratory diseases, including bronchitis.

In 1999, by a vote of 11-4, the OSHA Metalworking Fluids Standards Advisory Committee recommended that OSHA issue a rule to protect workers that handle metalworking fluids.[33] OSHA began developing standards, but action was halted by the Bush administration, and instead, on Nov. 14, 2001, OSHA issued unenforceable guidelines that merely list best practices for working with metalworking fluids. The administration has no plans to make these guidelines mandatory.

Food Safety

Listeria

On June 6, 2003, the USDA's Food Safety and Inspection Service (FSIS) issued inadequate standards to control Listeria Monocytogenes (commonly known as Listeria) – a dangerous food-borne bacterium often found in "ready-to-eat" foods – after several years of delay.

In early 2001, the Bush administration allowed a Clinton-era proposal on Listeria to be published for public comment after initially delaying it. However, it had begun to look like the administration had no intention of finalizing the standard.

In the meantime, Listeria continued to kill. There are approximately 2,500 victims of Listeria-contaminated food each year, 500 of which are deadly, according to the Centers for Disease Control and Prevention.[34] Since 1998, there have been three major Listeria outbreaks, causing dozens of deaths and hundreds of illnesses.[35] Most recently, in 2002, contaminated turkey from a Pennsylvania plant resulted in eight deaths, 54 illnesses, and three miscarriages across nine states.

This well-publicized outbreak put pressure on the administration to act, but its final standard was notably weaker than the Clinton proposal, providing no minimum requirements for testing. In its November 2002 newsletter, the National Food Processors Association noted the success of "industry efforts made at the White House level"[36] and that "a number of key [USDA] personnel have bought into much of the industry proposal."[37]

In particular, the Bush standard does not require plants to automatically test for the disease-causing form of Listeria (Listeria Monocytogenes) if the nonpathogenic form of Listeria is found. "This provision, dropped at the behest of the meat industry weakens public health protection," said Carol Tucker Forman, director of the Food Policy Institute of the Consumer Federation of America. "The dropped requirement would have made companies take responsibility for their actions and would concentrate testing where it is clear there is a potential problem."[38]

Making matters worse, USDA continues to allow labeling that can mislead consumers about the safety of "ready-to-eat" meats. "The bottom line is that consumers should not assume that meat stamped 'USDA inspected and approved, cooked and ready-to-eat' is safe," Foreman stated. "It may harbor pathogens that cause serious illness and can kill 20 percent of people infected. Pregnant women and immune suppressed individuals are especially vulnerable."

In the interest of accuracy and public safety, Consumer Federation of America recommends that the USDA require these meats to carry a label that says, "If you are pregnant or immune suppressed, reheat this product thoroughly before eating."[39]

Salmonella

The U.S. Department of Agriculture does not have the authority to close ground beef plants that fail to meet government standards for salmonella contamination, according to a December 2001 decision by the Fifth Circuit Court of Appeals.[40] This decision removed an important enforcement tool for cracking down on plants that repeatedly violate salmonella limits, and stripped USDA officials of the ability to take prompt action when a plant is found to be producing contaminated meat.

The Bush administration has failed to promote legislation that would restore USDA's enforcement authority and provide clear authority to set pathogen-reduction standards for other hazards in the meat supply. Indeed, Elsa Murano, USDA's undersecretary for food safety, put forth a "vision" document in 2003 that omits previously announced USDA plans to seek additional powers from Congress to close dirty meat-packing plants.[41] Without such legislation, inspectors are forced to apply the USDA seal of approval to meat even if it is produced in a plant that continually exceeds the salmonella standard.

The One Good Thing

The administration has voluntarily completed (without legal prompting) exactly one significant health and safety standard that represents a meaningful step forward – though even this was somewhat weakened from the earlier Clinton-era proposal.

Specifically, on July 11, 2003, FDA issued standards requiring labels to list the amount of trans fatty acids in foods.[42] Trans fatty acids (or "trans fat"), which have been linked with an increased risk of coronary heart disease, are fats found in foods such as vegetable shortening, snack foods, fried foods, and salad dressings.

The new standards require labels to list grams of trans fat, but do not include a provision, contained in FDA's 1999 proposal, requiring trans fatty acids to be included in the amount and percent Daily Value (%DV) declared for saturated fatty acids (another heart disease promoting fat). Canada requires food manufacturers to label trans fat in this way.

"The new labels will let consumers compare trans fat content from product to product, and that will be a great step forward," said Margo Wootan, policy director at Center for Science in the Public Interest. "It will be hard, though, for people to tell if a given number of grams of trans fat is a lot or a little. Five grams may not seem like a lot, but it is."[43]

E. Coli Testing

Since President Bush took office, tens of thousands have suffered life-threatening illnesses from E. coli O157:H7, and there have been 60 recalls of ground beef due to contamination. Testing beef carcasses in the slaughter plant – on top of testing ground beef – can significantly reduce this risk, according to industry data. Nonetheless, the administration has declined to make this a requirement.

Auto Safety

Head and Neck Injuries

In January 2001, the Clinton administration proposed to upgrade head-restraint standards for passenger cars, light multipurpose vehicles, trucks, and buses. Head restraints, the uppermost part of seats, protect the head and neck from injuries often suffered in vehicle crashes. According to NHTSA, 805,581 whiplash injuries occur annually, costing about $5.2 billion each year. The proposal would toughen standards issued in 1969 by adding new strength requirements, limiting the size of gaps and openings in head restraints, and applying to outward-facing back seats.

The Bush administration has had more than three years to review public comments, but has not moved forward with this proposal.

SUV Rollovers

The Bush NHTSA has refused to take action to stop rollovers of light trucks, including SUVs and pickups, despite the increasing severity of the problem. Occupant fatalities increased 2.6 percent between 2001 and 2002 alone, and fatalities from SUV and pickup rollovers accounted for nearly half of this total increase, and for 79 percent of the increase in passenger vehicle rollover fatalities.[44] Meanwhile, occupant fatalities in passenger cars were "essentially unchanged," according to NHTSA.[45]

SUVs are three times as likely as passenger cars to roll over, while pickup trucks are twice as likely to roll over.[46] Sixty-one percent of SUV occupant fatalities are due to rollover crashes; next in line are pickup trucks at 46 percent.[47] In the past 15 years, the number of SUV rollover fatalities has quadrupled.[48] Light truck rollovers, with one exception, have increased every year between 1991 and 2002, resulting in a 50 percent increase in fatalities – or 1,968 lives lost – from these accidents.[49]

Health Care

Minimum Staffing for Nursing Homes

HHS reports that over 90 percent of nursing homes are understaffed, leading to overworked employees and a lack of adequate care for residents.[50] In fact,

residents in the nation's lowest staffed nursing home are more likely to lose weight, become dehydrated, develop bedsores, and experience other problems.[51]

The National Academy of Sciences has called for the establishment of minimum staffing standards at nursing homes, yet the Bush administration has failed to act, citing cost concerns.[52]

The administration should adopt standards such as those proposed by Rep. Henry Waxman in the Nursing Home Staffing Act of 2003, which would mandate staffing levels recommended by HHS and would require that all nursing home residents receive at least 4.1 hours of nursing care each day.

Consumer Product Safety

Baby Bath Seats

In May 30, 2001, the Consumer Product Safety Commission[53] voted to begin a rulemaking to develop safety standards for baby bath seats. A short time later, President Bush appointed Hal Stratton as the new chairman of the commission to replace President Clinton's appointee. Over the following years, CPSC has failed to issue even a proposed rule on the matter, during which time 10 babies have died. Ninety-six babies have drowned while using these products since 1983.[54]

All Terrain Vehicles (ATVs)

Between 1993 and 2001, the number of injuries caused by ATV-related accidents more than doubled, with 111,700 ATV accidents occurring in 2001. Injuries suffered by children under 16 increased by 94 percent between 1993 and 2001, climbing as high as 34,800.

CPSC should ban the sale of ATVs to children under the age of 16 and pursue other safety measures as well. The commission held a public hearing on the matter in June of 2003, but has thus far failed to act.

Product Recall Registration Cards

In March 2003, the commission voted 2-1 to reject a request by Consumer Federation of America to require that product registration cards be included in children's products; these registration cards would improve the effectiveness of recalls.

Stratton, the Bush-appointed chairman, and Commissioner Mary Sheila Gall, appointed by former President George H.W. Bush, both opposed the measure. (President Bush originally nominated Gall to serve as chair, but the Senate rejected the nomination for her unwillingness to hold industry responsible for product safety as discussed in the box below.) Commissioner Thomas Moore, a Clinton appointee, supported the petition.

Fox In the Henhouse

Mary Sheila Gall, rejected as chairman of the Consumer Product Safety Commission

Gall was the first Bush nominee to be officially rejected by the Senate. She had served on the CPSC since 1991 (appointed by the president's father) with a hands-off regulatory philosophy and a record of pro-industry actions. She voted against federal efforts to regulate baby walkers, baby bath seats, bunk beds, and frequently blamed children's injuries on parents rather than faulty products. Sen. John Edwards (D-NC) noted that the chair of the commission gives a voice to consumers "and under Mary Gall, that voice would be silent." Although Gall was rejected for the position of chairman, she continues to serve as vice chairman of CPSC.