



JUL 29 2008

The Honorable George Miller
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Miller:

This letter is in response to the July 23, 2008, letter from you and Chairman Kennedy requesting documents and information about the Department of Labor's draft Notice of Proposed Rulemaking (NPRM) titled "Requirements for DOL Agencies' Assessment of Occupational Health Risks," that is currently under review at the Office of Management and Budget (OMB).

At the outset, I must note that the Department strongly objects to your assertion that there is some sort of attempt underway to secretly implement a rule. The federal rulemaking process, as you may know, is governed by the Administrative Procedure Act and is by definition a public process. A central element of the rulemaking process is the solicitation of comments from the public, and the Department has drafted a proposed rule precisely so that it can gather public input on the proposal during the comment period. Your suggestion that the Department withdraw the draft rule (which is still subject to modification), as well as the inaccurate speculation about its specific content and effect, is premature given that no rule has even been proposed as yet by the Department. Consistent with the practice of this Administration, as well as prior Administrations, once OMB has completed its review of the draft NPRM and it is published for public comment in the *Federal Register*, we will be pleased to publicly discuss the proposal.

In your letter, you requested that the Department produce within just four business days a number of documents and other information related to the development of the draft rule referenced above. Such a short deadline is simply insufficient for the Department to consider and prepare a response, particularly given the significant actions announced by MSHA and OSHA over the past several days. As you may know, the staffs of MSHA and OSHA have been involved in the development of the draft under review at OMB and thus need to be included in the preparation of the Department's response to your request.

Although the Department is unable to fully respond to your letter today, we anticipate that we will be able to do so by this Friday, August 1. If you have additional questions, please feel free to contact my office at (202) 693-6151.

Sincerely,

A handwritten signature in cursive script that reads "Leon R. Sequeira".

Leon R. Sequeira
Assistant Secretary for Policy