

**TESTIMONY OF DAVID MICHAELS, PHD, MPH
ASSISTANT SECRETARY
FOR THE
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
U.S. DEPARTMENT OF LABOR
BEFORE THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES**

June 23, 2010

Mr. Chairman, Ranking Member Kline and Members of the Committee:

Thank you for inviting me to join you this morning to discuss worker health and safety from oil rig to the shoreline. This issue has been brought to our attention in the most tragic way possible – with the deaths of eleven workers, and injuries to 17 others as the result of the April 20th explosion on the *Deepwater Horizon* offshore oil drilling platform. Now, two months into this disaster, which President Obama aptly called an “assault on our shores and our citizens,” thousands of employees and volunteers are working every day to clean up the mess. The Occupational Safety and Health Administration (OSHA) is working closely with other Federal agencies to prevent additional worker injuries, illnesses and deaths from the oil spill cleanup. I am here today to discuss these ongoing efforts.

As you are aware, OSHA has no regulatory or enforcement authority over mobile oil drilling rigs or production platforms located on the Outer Continental Shelf (OCS) where the *Deepwater Horizon* was located. Section (4)(b)(1) of the Occupational Safety and

Health Act preempts OSHA from enforcing its regulations if a working condition is regulated by another agency of the Federal government. Thus, even though OSHA has some authority over OCS lands, because the Coast Guard has extensive regulations that apply to these facilities and coordinates its inspection program with the Minerals Management Service (MMS) to ensure that the USCG workplace safety requirements are carried out, OSHA has no regulatory or enforcement authority on oil drilling rigs or production platforms on the Outer Continental Shelf. I will therefore focus my remarks today on OSHA's efforts to keep workers safe during oil spill cleanup activities.

Oil spill cleanup workers are on the front lines of the nation's response to the *Deepwater Horizon* disaster. Currently it is estimated that there are more than 33,000 people involved in the response, including over 13,000 cleanup workers employed by BP or its contractors, 1,600 National Guardsmen and women, workers on over 6,000 boats supporting the response operations, and more than 1,800 Federal employees directly involved in the cleanup operations in four states. And that number grows every day. Secretary of Labor Hilda Solis' vision for the Department is "Good Jobs for Everyone." Good jobs are safe jobs and OSHA is extremely involved in making sure workers involved in the oil response and cleanup efforts go home safely when their work is done.

OSHA's involvement in the *Deepwater Horizon* oil spill is part of a coordinated Federal response which includes the Coast Guard, HHS's National Institute for Occupational Safety and Health (NIOSH) and National Institute of Environmental Health Sciences (NIEHS), and other government agencies, as well as BP, to ensure that workers are

protected from hazards associated with cleanup work. OSHA is the lead agency responsible for the enforcement of worker safety and health standards for onshore cleanup and in the coastal waters (approximately 3 to 6 nautical miles from shore). The Department of Labor, through OSHA, is a member of the National Response Team and has been an active participant in the oil spill response by providing guidance, assistance, and support to the Coast Guard at the National Incident Command, the Unified Area Command and Area Commands.

On June 10th, OSHA signed a Memorandum of Understanding (MOU) with the Federal On-Scene Coordinator (FOSC) for the Deepwater Horizon response. The MOU solidified a close working relationship between the FOSC and OSHA, and established a specific mechanism for coordination. OSHA and the FOSC recognize the importance of close cooperation among all the agencies that have responsibilities during the oil cleanup efforts. The MOU furthers joint efforts to monitor compliance with safety and health standards and to protect workers. The FOSC and OSHA will share relevant information with each other to promote worksite safety in the *Deepwater Horizon* Response, including information provided by workers, local government officials or any other person.

OSHA has the authority to conduct safety and health inspections of cleanup activities involving employees of BP and other private and Federal employers– and if necessary to issue citations – to determine if safe working conditions are being provided for employees. The MOU provides the means for OSHA to notify the FOSC when it intends

to take enforcement action against BP, BP's contractors, or any other employer engaged in response activities.

OSHA personnel were first deployed to the Gulf during the week of April 26th and are now present in all 17 staging areas in Louisiana, Mississippi, Alabama and Florida.

OSHA's Health Response Team, based in Salt Lake City, arrived in Louisiana on May 6th to provide technical support to OSHA response site personnel for worker exposure monitoring.

Every day, OSHA has over 146 professionals protecting workers throughout the Gulf Region, 25 of whom are assigned solely to the Oil Response Cleanup. We are in the field and on boats to make sure BP and its contractors are protecting cleanup workers from health and safety hazards. OSHA inspectors ensure that the employer is complying with heat precautions, personal protective equipment and training requirements, and is properly addressing chemical and electrical hazards, decontamination of personnel and equipment, and many other hazards, such as being hit by the numerous vehicles dropping off supplies. As of June 11th, OSHA staff had made over 1000 site visits, both unannounced and coordinated with BP, covering all 17 staging areas, and the active worksites on shore or at sea.

Depending on their assignments, oil spill cleanup workers face hazards from heat, falls, drowning, fatigue, loud noises, sharp objects, as well as bites from insects, snakes and other wild species native to the Gulf Coast region. Many of these workers also face

exposure to crude oil, oil byproducts, dispersants, cleaning products, and other chemicals being used in the cleanup process. OSHA is working to ensure that employers protect workers from this vast array of hazards.

When OSHA finds a safety problem or learns of one from workers, we notify BP so that the specific problem and similar concerns are addressed across the entire response area. OSHA then ensures the problem is corrected. When necessary, OSHA raises concerns to the Unified Command. OSHA is also ensuring that BP is providing workers with both the proper training and proper protective equipment (boots, gloves and other necessary protective gear). At this point, OSHA has found this process to be effective, and it has not had to issue citations or propose civil penalties to obtain compliance. That option remains available, however, should we determine that it is necessary.

All workers involved in the cleanup operation that have contact with contaminated material are required to receive training free of charge. Emphasis is placed on ensuring workers are trained in a language and vocabulary they understand. OSHA has been working with NIOSH, NIEHS and BP since the *Deepwater Horizon* sank to ensure that BP is providing the appropriate training, in the appropriate language to all workers involved in the clean up. OSHA, along with NIEHS, continues to monitor this program. In response to recently received information, OSHA is in the process of increasing the training requirement for crews on the vessels of opportunity engaged in offshore oil cleanup activities. Expanded training will cover chemical hazards and exposures, decontamination procedures, sampling results and workers' rights.

One of the most serious health hazards facing those involved in the Gulf Oil Spill Response is heat stress. There have already been over 100 incidents of illnesses from heat among workers involved in the cleanup, some very serious. From the outset, OSHA has insisted that BP implement a robust program to protect workers from heat stress and heat stroke, a potentially life threatening hazard for people working in cleanup operations. Many of these people work 12 hours a day, 7 days a week, wearing chemical resistant Tyvek coveralls, boots and gloves, in the hot and humid weather along the Gulf. BP has now implemented, at all work sites, a heat stress plan that includes a matrix setting out specific work/rest requirements based on the heat and relative humidity, and whether workers are wearing protective clothing and equipment—which can exacerbate the hazard.

Other aspects of the heat stress plan ensure that:

- Workers are trained in the hazards of heat and the precautions necessary to prevent heat stress.
- Work begins early in the day to take advantage of cooler temperatures.
- Shaded rest areas are provided at all work areas.
- Workers drink liquids and take rest breaks throughout their work shifts.
- Heat stress monitors are on site at all times to ensure the work/rest regimen is adhered to, that workers are drinking enough to stay fully hydrated and that any workers exhibiting symptoms of heat related illness are immediately given fluids, rest and other appropriate care.

OSHA is also concerned about the potential health effects from inhaling chemicals in the crude oil, weathered oil, oil dispersants, cleaning agents, and other chemicals, which we continue to monitor, in order to assess and characterize the hazards the present. Aside from those workers on ships directly adjacent to the oil leak who are exposed to fresh oil, most of the cleanup workers are exposed to weathered or partially weathered oil, where all or most of the toxic volatile substances have evaporated.

To determine whether workers are exposed to dangerous levels of toxic chemicals, OSHA, along with NIOSH, is reviewing BP's monitoring data and has brought in a team of industrial hygienists to conduct its own independent air monitoring both on shore and on the cleanup vessels. OSHA is characterizing worker exposures in each job task to determine the appropriate level of protection from air contaminants. From the exposure characterizations already completed, we have developed, in collaboration with our colleagues at NIOSH, a personal protective equipment (PPE) matrix which outlines the equipment workers should be using for each job duty to protect them from the hazards and exposures associated with that job. For example, respirators are recommended at the source, whereas evidence does not support use of respirators in other locations and job duties. The matrix is posted on our website along with our sampling protocols and sampling results. The website includes clear information about where the samples were collected and what jobs the workers were doing when they were monitored. OSHA is also analyzing the "soup" of crude oil, oil by-products, dispersants, and any other material to determine what hazards the mixture might present workers as they respond to

and cleanup the oil spill. We are currently working with NIOSH to develop and issue a respirator and general worker health protection policy.

Finally, OSHA is monitoring other chemical exposures, such as exposures to chemical solvents used to clean boats, to determine whether workers are being appropriately protected from these exposures.

We have also distributed thousands of safety fact sheets and the OSHA-NIEHS pocket guides to workers involved with the oil spill cleanup along the Gulf Coast. The pocket guides and fact sheets are printed in Spanish and Vietnamese as well as English, in recognition of the diverse population inhabiting the Gulf Coast region.

In addition, OSHA has a webpage titled, “Keeping Workers Safe During Oil Spill Response and Cleanup Operations.” This site has an abundance of helpful information for cleanup workers and the general public on the hazards that workers face, including crude oil, insects, snakes, poisonous plants, drowning, oil dispersants, ergonomic stresses, fatigue, and slips, trips and falls. It also has extensive safety information on subjects such as respiratory protection, boat and vessel safety, PPE and hazardous waste operations. The site references special oil spill training materials from other governmental agencies and provides useful contacts, as well as information on workers’ rights. It is excellent comprehensive information that I am proud to recommend.

In order to get a first-hand view of health and safety activities in the Gulf, I first traveled to Louisiana on May 2nd with a team of experienced hazardous material professionals to lead efforts to ensure that cleanup operations were performed promptly, effectively and safely. At our initial meeting, I was joined by representatives of NIOSH, NIEHS and EPA, establishing a close working relationship between these public health agencies. I returned with Secretary Solis on June 9th and 10th to inspect efforts on behalf of the health, safety and well-being of cleanup workers affected by the spill. We met with beach cleanup workers in Port Fourchon to make sure that they received the required training and that they were provided the necessary equipment to be protected from job hazards. We also discussed worker safety efforts with community organizations representing fishermen and other cleanup workers.

OSHA's Deputy Assistant Secretary (DAS) Jordan Barab participated in a multi-agency delegation to the Gulf on June 1st – 2nd where, after being briefed by the Unified Command leadership, he reviewed the safety and health protections in place to prevent worker injuries and illnesses. In Port Fourchon, he observed beach cleanup workers skimming the sand and collecting oil deposits. He also traveled to Venice, Louisiana, which is a major staging area for the Vessels of Opportunity Program, designed and implemented to provide local boat operators an opportunity to assist with response activities. DAS Barab spoke with workers about issues of concern to them which included exposure to chemicals, working in extreme heat, fatigue. He also verified that the workers had received the required protective health and safety training, in a language and at a level that they could understand.

Conclusion

OSHA's top priority is to ensure that oil spill response and cleanup operations are done as safely, effectively and efficiently as possible. As the President said in his address to our nation, "We will fight this spill with everything we've got for as long it takes."

OSHA will be there for that fight, doing all that it can to protect the safety and health of those fighters.

Thank you for the opportunity to testify today. I am happy to answer your questions.