

June 11, 2010

U.S. Secretary of Labor Hilda Solis  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Re: OSHA decision, no respirators required for BP Gulf spill response

Dear Labor Secretary Hilda Solis;

On June 4, 2010, Assistant Secretary of Labor David Michael announced that OSHA will require BP to provide certain protective clothing, but not respirators. OSHA made the same mistake during the *Exxon Valdez* oil spill response – and I have been dealing with sick workers for the past 21 years. I hope to change the outcome for the BP spill responders. I have several concerns and questions and **ask for answers in writing within one week** because of the urgency of this matter: I believe men's lives are currently at risk on the BP Gulf spill response.

Already fishermen and others in the Gulf response have suffered nausea, shortness of breath and other respiratory ailments, sore throats, bad headaches, dizziness, and skin rashes. I have been down in the Gulf since May 3 and have met with many of the sick workers personally and their attorneys, including some workers who were emergency evacuated the week of May 24 to hospitals from the well blowout site.

These are the exact same acute symptoms experienced by *Exxon Valdez* responders – as well as responders in the 2002 *Prestige* oil spill in Spain and the 2007 *Hebei Spirit* oil spill in South Korea. Studies on worker or public health after the latter two spills linked exposure to oil fumes and oil particles with respiratory damage, central nervous system damage, and even genetic damage (South Korea). A pilot study (Yale Master's thesis) conducted 14 years after the *Exxon Valdez* spill found a significant number of participants had chronic respiratory illnesses, chronic central nervous system disabilities, and chemical sensitivity. ([www.rikiott.com](http://www.rikiott.com))

OSHA needs to focus on the primary compounds of concern: crude oil. Oil spills were not declared as hazardous waste cleanups because of "heat stroke," "food poisoning," dehydration, and slips and falls but because oil is inherently hazardous to human health. Dispersants of choice add more compounds of concern, but let's focus on oil.

Most of the Material Safety Data Sheets for Louisiana sweet crude list inhalation as the primary route of exposure and describe the following symptoms of overexposure. For example: "May cause respiratory and nasal irritation. Central nervous system effects may include headache, dizziness, loss of balance and coordination, unconsciousness, coma, respiratory failure, and death" – in other words, exactly the symptoms described by the response workers (excluding the most serious symptoms, so far). [www.martinmarietta.com/products/MSDS-CrudeOil.pdf](http://www.martinmarietta.com/products/MSDS-CrudeOil.pdf)

BP's MSDS for Louisiana sweet crude is for **weathered** crude and it downplays the most likely route of exposure – inhalation: "Potential for toxic vapor exposures is very low: with the

loss of the highly volatile components, weathered oil does not present an inhalation hazard.”  
[www.bp.com/liveassets/bp\\_internet/globalbp/globalbp\\_uk\\_english/incident\\_response/STAGING/local\\_assets/downloads\\_pdfs/Mississippi\\_Canyon\\_252\\_Weathered\\_Crude\\_Oil\\_MSDS\\_English.pdf](http://www.bp.com/liveassets/bp_internet/globalbp/globalbp_uk_english/incident_response/STAGING/local_assets/downloads_pdfs/Mississippi_Canyon_252_Weathered_Crude_Oil_MSDS_English.pdf)

Given the symptoms the response workers are reporting, it seems fair to say that the crude oil is not as “weathered” as BP imagines, and that the crude oil and working conditions pose very real dangers to the responders.

Although OSHA approved BP’s worker safety program, including not making respirators a mandatory part of the safety equipment, it is the responsibility of OSHA to ensure that the program is functioning properly to protect workers and, if not, then to ensure steps are taken to identify the source of illness or injury outbreaks and adequate corrective measures.

### Concerns and Questions

1) Response to mass disasters should begin with a person who is responsible. This person should be an OEMP (occupational and environmental medicine physician) who is trained to properly identify and treat occupational illnesses. Under the OEMP, there should be teams of doctors and nurses for every 2,500 people, according to experts in this field. These “field teams” should have an OP, an IH (industrial hygienist), and two nurses.

⇒ Is there a lead OEMP? Are there field teams as described? If not, please describe the structure of BP’s OSHA-approved worker safety program.

2) Field teams should be monitoring for every suspected health hazard. This is after all, a hazardous waste cleanup, and suspected hazards should be monitored. If problems arise, such as an epidemic of upper respiratory infections (or, as I suspect, chemical-induced illnesses), the field teams should work with the lead OEMP to identify the source of the outbreak from the monitoring data and then design and test ways to stop the epidemic. This preventative loop is critical to the overall success of the worker safety program.

⇒ Please describe the preventative loop in BP’s OSHA-approved worker safety program. Please provide a list of suspected health hazards that are being monitored by OSHA. If OSHA is relying on BP for monitoring, please provide the list of suspected health hazards that are being monitored by BP. If the latter is the case, please also indicate whether BP is providing OSHA with the air quality data, and any other monitoring data, on a daily basis. Please list the labs that are analyzing the air quality data and any other data.

⇒ It is blatantly obvious to observers that respirators should be **required**. If and when the field monitoring proves this to be the case, please provide documentation that respirators being properly fitted; workers are being trained to use them properly; and that workers are wearing them.

3) A proper worker safety program is like a vertical ladder of reporting with the workers at the bottom, various supervisors next, then the field teams, and finally the OEMP director. People at each rung have to be fully cognizant of the occupational hazards and health symptoms in order

for the program to work effectively. Supervisors and workers should be trained to identify symptoms of both short- and long-term health problems that might arise from chemicals including oil and oil derivatives to which they might be exposed. Not properly treating these symptoms, not remedying the situation that led to them, and further exposing the workers to dangerous conditions could very possibly lead to long-term health problems, as was the case with *Exxon Valdez* workers.

- ⇒ Please provide evidence that the workers **and** trainers **and** supervisors in BP's OSHA-approved worker safety program are trained to recognize that simple headaches, sore throats, bronchitis, sinus congestion, coughing, and other flu-like symptoms might not be simple colds or flu. Rather, these symptoms might be early warning signs of chemical poisoning or overexposure to hazardous chemicals and other chemicals of concern. Are the IH people providing formal work assessments of the physical and chemical stresses to which workers are exposed? If not, why not?

4) Workers should be checked for pre-existing conditions. For example, the following medical conditions may be aggravated with exposure to crude oil, according to the MSDS listed above: "Skin disorders, respiratory conditions, liver or kidney dysfunction, male reproductive and peripheral nerve disorders." (The BP MSDS only lists skin disorders.)

- ⇒ Please provide evidence that potential workers are given a pre-hire health screening as part of BP's OSHA-approved worker safety program to see if they are fit for the particular job or given jobs they can handle. Please list all pre-existing medical conditions that are included in the health screening.

5) A monitoring program is essential for determining the levels of chemicals in the work environment. However, design of this program is also critical. Samples need to be collected in a methodical way that allows one to determine exposure levels to workers. The NIOSH sampling manual needs to be followed. The number of samples means very little. A rigorously planned and carefully followed statistical design is important.

- ⇒ Please describe the monitoring program that is part of BP's OSHA-approved worker safety program. Has OSHA ensured that it follows the NIOSH sampling manual? Are OSHA and the OEMP and IH people receiving the data in a timely manner so they can use it to trouble-shoot in instances of illness outbreaks? Is there more than one lab involved in analyzing the data? If so, please describe the inter laboratory QA/QC (quality assurance and quality control) program: without such a QA/QC program, the cable that essentially ties all the data sets together will be missing and the data could be meaningless. Please provide the name(s) of the lab(s) analyzing the data.

6) Twenty-one years ago during the *Exxon Valdez* spill response, the OSHA standard for Personal Exposure Limits to crude oil was based on a surrogate – mineral oil, a highly purified and nontoxic substance, rather than crude oil, which has known toxic and carcinogenic properties. Also, the OSHA PEL for polycyclic aromatic hydrocarbons or oil particulates was based on a surrogate – nuisance dust, rather than PAHs, which have known irritants and metals, as well as immunotoxic and carcinogenic properties. Further, PELs were based on single

compounds, not compounds in combination, as is the case with exposure to whole crude, including VOCs and PAHs.

- ⇒ Are the OSHA PEL standards for crude oil and PAHs now based on the actual compounds of concern? If not, what surrogates are used? Is BP basing its OSHA-approved worker safety program on the OSHA standards for the actual compounds of concern – or on the surrogates? What adjustments, if any, are being made to the OSHA PELs to accommodate the potentially synergistic interactions among chemicals of concern?

7) The federal standards for PELs for various compounds of concern should be adjusted *downward* (i.e., more protective) when work shifts exceed the 8-hour day, 5 days/week standards on which the PELs are based.

- ⇒ Please describe the adjustments, if any, that BP is making as part of its OSHA-approved worker safety program to accommodate longer daily shifts and/or the 7 days/week shifts.

8) Over one million gallons of Corexit dispersants have been dumped by BP's in the Gulf. I have seen photo documentation (in custody of lawyers of injured workers) that planes spraying dispersants operate within close proximity to responders in boats – and to the burn site. The Corexit products contain solvents: for example, Corexit 9527 is 30–60 percent solvent by weight. Solvents are one of the primary compounds associated with chemical sensitivity, a debilitating disease with long-term health consequences. Exposure to solvents, especially through inhalation, can lead to toxic systemic illnesses in people, and reproductive damage, liver and kidney damage, and blood damage. The MSDS for the Corexit products also mention that noxious oxides may be produced in fire conditions and that special protective gear is recommended in fire conditions.

- ⇒ Please describe all steps in BP's OSHA-approved worker safety program that are designed to specifically protect workers from solvents as compounds of concern, including air quality monitoring, OSHA PEL standards, training to recognize hazard and symptoms of overexposure, and personal protective equipment in fire conditions.

9) OSHA approved BP's 4-hour hazardous waste training program instead of the required 40-hour training program. I am aware of glaring deficiencies in the 4-hour training program, some in direct violation of the Hazardous Communication Standard. For example, workers were not given MSDS for all the chemicals they would encounter; some workers told me dispersants were never mentioned during the training program. Further, workers were apparently not informed of the short and long-term health risks and symptoms of working with oil and the chemical products as many with whom I have spoken were completely ignorant of likely cause of their headaches, nausea, sore throats, and coughs.

- ⇒ Please describe what steps OSHA will take to ensure that BP's safety training program adequately informs workers of, and trains workers to recognize and protect themselves from, any and all hazardous chemicals and other chemicals of concern that they might expect to encounter during the spill response operations. I

recommend pulling workers in shifts to give them the full 40-hour hazardous waste training program.

10) During the *Exxon Valdez* spill response, Exxon with the US Coast Guard effectively blocked OSHA's access to beaches and workers, so OSHA was never able to conduct its planned full-scale independent monitoring program of Exxon's worker safety program. Neither OSHA nor NIOSH obtained Exxon's records – clinical data and air quality monitoring data – that subsequently surfaced (five years after the spill response) in court records and are available in my book, *Sound Truth and Corporate Myths* ([www.rikiott.com](http://www.rikiott.com)). The sick workers were left to fend for themselves.

In the Gulf situation, BP and the US Coast Guard are effectively blocking OSHA's access to the offshore sites where workers are responding to the spill. The Coast Guard is responsible for boating safety; OSHA is responsible for worker safety. Small wonder people are getting sick. There doesn't appear to be any federal agency actually in charge of worker safety except on paper.

⇒ Please provide the exact law and regulations that allow the Coast Guard to preempt OSHA's duty to protect America's workers. If the Coast Guard is going to continue to preempt OSHA on the matter of monitoring BP's OSHA-approved worker safety program, please state in writing that OSHA is relinquishing its duty to the US Coast Guard. Further, then please forward this letter to Admiral Thad Allen or the appropriate officer so that the Coast Guard can then address the above concerns and questions.

### Summary

BP has clearly stated that it will not provide workers with, or allow workers to use their own respirators, because respirators “are not required.” Unless and until OSHA provides answers to my stated concerns and questions, I remain skeptical and a critic of OSHA's decision to **not** mandate respirators for spill response workers. OSHA has not provided adequate documentation for its decision, nor any assurance that its decision is founded on a comprehensive independent monitoring program – including offshore conditions – of BP's OSHA-approved worker safety program.

Absent this documentation and independent monitoring program, I am convinced that BP and OSHA are exposing workers to dangerous compounds, including oil and solvents, at dangerous levels – and that workers are getting sick from unsafe working conditions. I witnessed this exact same scenario during the *Exxon Valdez* spill response. It saddens and frustrates me to witness this again. It was unnecessary and inexcusable 21 years ago; it is unnecessary and inexcusable now. OSHA needs to protect America's workers – they are not disposable.

Sincerely,

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(in Gulf Coast for summer)

cc: David Michaels, Assistant Secretary of Labor, OSHA  
U.S. EPA, Lisa Jackson  
U.S. DHHS, Secretary Kathleen Sebelius  
U.S. DHHS, NIOSH director John Howard  
U.S. Coast Guard Admiral Thad Allen  
U.S. Senator Carolyn Maloney  
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