

**STATEMENT OF**  
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**BEFORE THE**  
**SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS,**  
**AND CIVIL LIBERTIES**  
**U.S. HOUSE OF REPRESENTATIVES**

**JUNE 25, 2007**

Oversight Hearing on the U.S. Environmental Protection Agency's Response to Air Quality Issues Arising from the Terrorist Attacks of September 11, 2001: "Were There Substantive Due Process Violations?"

**Mr. Chairman, Members of the subcommittee.**

I am an occupational safety and health professional and a certified industrial hygienist providing safety and health consultation services to clients around the world. In June 2001, I was nominated by President Bush then later confirmed by the US Senate in August 2001 as Assistant Secretary of Labor for Occupational Safety and Health or OSHA. I wish to take this opportunity today to discuss OSHA's role in protecting workers after the tragic events of the World Trade Center on September 11, 2001. My testimony today represents my views and reflects my experiences while OSHA Administrator.

OSHA's mission is to ensure to the extent possible safe and healthful working conditions for employees in this Nation. Under the OSH Act of 1970, OSHA has jurisdiction over Private Sector employers and does not have jurisdiction over the Public Sector which employs local, state and municipal employees such as local fire and police. In addition and under the Federal Response and National Contingency Plans established to deal with emergencies, OSHA operates under the incident command system which is invoked during emergency situations.

Our first action after the attack was to evacuate all 21 members of our Manhattan Area Office staff from #6 World Trade Center, which was destroyed with the collapse of the North Tower. It is because of their training and commitment to protecting workers, all our employees, including an

employee confined to a wheelchair, got out safely. They too were traumatized and exposed to the all of the same conditions as others who were in lower Manhattan that tragic day.

After all were accounted for, our staff joined with other Federal, State and local agencies, as well as safety and health professionals from contractors and trade unions onsite, in an effort help protect workers involved in rescue, recovery, demolition and clean up operations. In line with the Federal Response and National Contingency Plans and OSHA's internal directive, we determined we could be most effective in protecting worker health and safety by providing immediate assistance, oversight and consultation in an effort to assure OSHA standards and good safety and health practices were followed at a minimum. It was apparent the site was not a typical construction or demolition site and workers needed immediate protection from hazards whose scope and severity could be assessed only as the work progressed.

In an effort to achieve quick and maximum effectiveness in saving lives and assuring worker protections, OSHA embarked upon five activities:

- conducted personnel and area monitoring to characterize potential workplace exposures and resulting hazards;
- recommended appropriate personal protective equipment including respiratory protection;
- distributed and fit respirators along with distributing other personal protective equipment;
- conducted safety and health inspections and observations - 24 hours a day - seven days a week in an effort to assure standards were followed and workers are properly protected, and;
- provided site leadership and coordination on workplace safety and health.

OSHA committed nearly 1,100 staff, sometimes as many as 75 OSHA personnel a day on site. Our employees remained on the site for 10 months providing a 24-hour presence, 7 days a week.

OSHA collected more than 6,500 air and bulk samples and performed over 24,000 analyses for asbestos, lead and other heavy metals, silica and many other inorganic and organic compounds. All told, we analyzed for 81 different potentially hazardous materials.

Personal sampling was conducted around the clock each day and we coordinated our monitoring with onsite safety and health professionals from unions, contractors and other officials. OSHA's sampling efforts included breathing zone samples of workers on and near the pile as well as other areas

impacted by the attack. Work being done included such tasks as search and recovery, heavy equipment operation, steel cutting and burning, manual debris removal and concrete drilling and cutting.

OSHA's breathing zone samples showed exposures were well below the agency's permissible exposure levels for the majority of chemicals and substances analyzed.

In an effort to ensure that workers were informed about the potential risks, OSHA distributed sampling summaries to trade unions, site contractors and agencies during our daily safety and health meetings. Individual worker sample results were mailed directly to the worker monitored. OSHA also posted these results on our Web site within 8 hours.

OSHA constantly and consistently recommended and instructed employers and workers on the site to wear appropriate respirators. Due primarily to the unpredictable nature of the hazards on the pile, a high level of protection was selected jointly with all the site safety and health professionals. This was a half-mask, negative pressure respirator with, high efficiency particulate, organic vapor and acid gas cartridges. These requirements were communicated through orders and notices posted throughout the sites and as well as during inspections, daily meetings and other communications.

OSHA continued to conduct extensive risk assessments through personal monitoring to verify the selected respirators remained appropriate. When sample results indicated a higher level of protection was needed for example during jack hammering and concrete drilling operations, a full face piece respirator was required for those operations.

OSHA became the lead agency for respirator distribution, fitting and training. During the first 3 weeks following the attack, OSHA gave out respirators at a rate of 4,000 per day. Over the 10 month period, OSHA distributed more than 131,000 respirators to personnel working at the World Trade Center.

Assuring workers had the proper respiratory protection and that they were properly fitted and trained to wear the respirator, was a challenge. Initially handing out respirators on foot, OSHA quickly opened multiple equipment distribution locations throughout the 16 acres site including one at the Queens Marina, which was the Fire Department of New York's staging area.

Over 7,500 quantitative fit-tests were conducted for negative pressure respirators, including nearly 3,000 fit-tests specifically for the fire department.

These sessions also included instructions on the proper storage, maintenance, use and use limitations of respirators. In addition, 45,000 pieces of other kinds of protective equipment such as hard hats, safety glasses and gloves, were given out to those who needed them.

Mr. Chairman, I am very proud of how OSHA responded after the attack on September 11, 2001. Despite the highly intense, highly emotional, and highly dangerous rescue, recovery and clean up mission, this nation did not lose another life at that site during the 10 month operation. With over 3.7 million hours worked, only 57 non-life threatening injuries occurred during this period. This translates into a lost workday injury and illness rate of 3.1 per 100 employees, significantly less than the 4.3 per 100 workers for a typical specialty construction project – and Mr. Chairman this was not a typical construction project.

The absolute key to this success was working in partnership with unions, contractors, city employees and management in order to achieve compliance with OSHA standards and recommendations. A normal enforcement strategy was an unacceptable approach within the Green Line given the fact that enforcement may take days or weeks to develop the necessary evidence to support citations and if citations are contested, it could take years before an Administrative Law Judge's review and ultimately corrective action is required. Mr. Chairman: If our purpose was to save lives and avoid injury and illnesses, we did not have years, months or even weeks to wait for corrective actions. We had to deploy a strategy that achieved compliance as soon as the hazard was recognized so corrective action was immediate. The number of "near misses" that were reported, indicated to me, that the strategy that achieved immediate corrective action was absolutely the right choice. OSHA did however execute the normal enforcement strategy outside the pile or ground zero and issued many citations.

The joint labor-management safety and health committee that was established very early in the operation was another mechanism to identify and correct work hazards and appropriate corrective actions. This also resulted in an unusually high level of safety and health oversight, training and direct involvement of the employer and workers. Union stewards, management and other agencies met with OSHA at least on a weekly basis to share information. Communications such as safety bulletins were distributed to respective members through tool box talks and other communications.

Mr. Chairman, I like many people in OSHA, can say with confidence and a high degree of pride that OSHA staff did everything they believed humanly possible to assure worker protection during the 10 months following the attack. OSHA did however learn a great deal at the WTC site, lessons that

can help the agency and the Nation improve emergency preparedness and emergency response in the future. Nationwide, the agency with support from NIOSH, has been actively pursuing a leadership role in coordinating worker safety and health during emergencies which is critical when multiple entities are involved. Following the WTC experience, the agency has made a concerted effort to get more involved in emergency preparedness and now trains with local firefighters and law enforcement agencies and others responders across the nations as a valued member of the response team.

Responders are realizing OSHA's value in worker safety and health and the value of having OSHA trained staff involved in the emergency preparedness and emergency response. Our Nation's responders deserve the very best protection and the best way to assure that is for OSHA, supported by NIOSH, to be an integral part of our national's emergency planning, training and response efforts.

Thank You - I'll be please to answer any questions.

