



this issue:

David Michaels, Nominee to be Assistant Secretary of Labor for the Occupational Safety and Health Administration

Who is David Michaels? Corporations want to kill you...

On August 5, 2009, President Obama nominated David Michaels to be the Assistant Secretary for the Occupational Safety and Health Administration (OSHA).

out of attacking industry funded research as corrupt and unreliable. Fn.4. He uses the example of the tobacco industry and paints all

Michaels, currently a professor at George Washington University has made a career out of attacking industry. He is the director of the Project on Scientific Knowledge and Public Policy (SKAPP). Fn.1. The project was originally funded by trial lawyers who sued the manufacturers of silicone gel used for breast implants and other medical devices.

“Michaels’ ‘regulate first, ask questions later’ approach to policy along with his apparent disregard for the costs of regulations present a significant danger to our economy. If Michaels’ ideas are turned into regulations, jobs will be lost.”

-Bill Wilson, President, Americans for Limited Government.

Fn.2. After years of litigation and billions of dollars in settlements it was found that the implants were actually safe, but none of the money paid out had to be repaid. Fn.3. The receipt of seed money from a special interest group like trial lawyers who have a pecuniary interest in research coming out one way is very ironic given that Michaels has made a career

industries with a broad brush saying that they know they can't win the political fights over regulation so they attempt to cast doubt on the science that goes into the regulatory process. Consider the following quotes.

“Tobacco figured this out, and essentially it's the same model,” said David Michaels, who was a federal regulator in the

Clinton administration. “If you fight the science, you're able to postpone regulation and victim compensation, as well. As in this case, eventually the science becomes overwhelming. But if you can get five or 10 years of avoiding pollution control or production of chemicals, you've greatly increased your product.” Fn.5.

Continued next page...

Michaels' Background

Research Professor, George Washington University School of Public Health and Health Services

Director, The Project on Scientific Knowledge and Public Policy

Assistant Secretary of Energy for Environment, Safety and Health

EDUCATION

B.A. City College of New York

M.P.H. Columbia University

Ph.D. Columbia University

Sources for further reading:

Fn.1. Davis Michaels, PhD, MPH, Faculty Profile, George Washington School of Public Health and Health Services. Available online at: http://www.gwumc.gwu.edu/sphhs/faculty/michaels_david.cfm. (Accessed September 29, 2009.)

Fn.2. Carter Wood, *OSHA nominee: Certitude is his product*, PointofLaw.com, August 6, 2009. Available online at: <http://www.pointoflaw.com/archives/2009/08/at-osha-an-cham.php>. (Accessed September 29, 2009.)

Fn.3. Walter Olson, *FDA ends ban on silicone breast implants*, Overlawyered.com, November 20, 2006. Available online at: <http://overlawyered.com/2006/11/fda-ends-ban-on-silicone-breast-implants/>. (Accessed September 29, 2009.)

Fn.4. See generally, *Doubt is Their Product*. See also, Stephen Lee, *Safety, Health Researcher David Michaels Emerges as Front Runner for OSHA Head*, Bureau of National Affairs, OCCUPATIONAL SAFETY & HEALTH REPORTER, VOL. 39 No. 21, May 21, 2009. Available online at: <http://ehscenter.bna.com/pic2/ehs.nsf/id/BNAP-7S9G7X?OpenDocument>. (Accessed September 29, 2009.)

Fn.5. Carter Wood, *Bisphenol A: Chemical Industry Defends Itself, Condemned*, PointofLaw.com, April 27, 2008. Available online at: <http://www.pointoflaw.com/archives/2008/04/bisphenol-a-chemical-industry.php>. (Accessed September 29, 2009.)

Fn.6. David Michaels, PhD, MPH, and Celeste Monforton, MPH, *Manufacturing Uncertainty: Contested Science and the Protection of the Public's Health and Environment*, AMERICAN JOURNAL OF PUBLIC HEALTH, VOL. 94 No. S1, September 1, 2005. Available online at: <http://defendingscience.org/upload/Michaels-Monforton.pdf>. (Accessed September 29, 2009.)

Fn.7. *Occupational hazard; OSHA nominee David Michaels merits opposition*, THE WASHINGTON TIMES, September 7, 2009, at A18. Available online at: <http://www.washingtontimes.com/news/2009/sep/07/occupationalhazard/>. (Accessed September 25, 2009.)

Fn.8. David Michaels, *It Takes a Tragedy*, The Pump Handle, April 20, 2007. Available online at: <http://thepumphandle.wordpress.com/2007/04/20/it-takes-a-tragedy/>. (Accessed September 25, 2009.)

What you really need to know about David Michaels

Continued from first page...

Michaels has a heavy bent toward regulating the risk out of everything even in the face of legitimate doubt regarding whether there even is a risk to be eliminated. On this point he has stated as follows:

Protecting the public's health requires regulatory policies and approaches that explicitly acknowledge uncertainty, while providing parameters that support decisionmaking based on limited data in situations where significant risk to human health or the environment exists. These parameters should be based in the fundamental paradigm governing public health: decisions must be made using the best evidence currently available. Even if these parameters for decisionmaking are rigorously applied, the debate over the science underpinning public health regulation is unlikely to disappear because protective actions often involve substantial financial costs. Fn.6.

The Washington Times recently editorialized that the Senate should not confirm Michaels calling him, "one of the nation's foremost proponents of allowing junk science to be used in jackpot-justice lawsuits." Fn.7.

The Times criticized his stand on the *Daubert* decision, a U.S. Supreme Court case which deals with science in the courts, as follows:

The junk-science dispute stems from a crucially important 1993 Supreme Court case, *Daubert v. Merrell Dow Pharmaceuticals Inc.* In *Daubert*, all nine justices (with two dissenting in small part) agreed that trial judges could hold hearings without juries present to determine if proposed expert testimony is relevant and reliable, based on objective criteria such as the use of scientific method and peer reviews. This way, a trial can be protected from being polluted by hired guns who may look and sound impressive enough to sway a jury that has no particular scientific expertise but who actually are peddling bogus theories or trumped-up evidence.

Mr. Michaels devoted a whole chapter in his tendentious book *Doubt Is Their Product* to the idea that *Daubert* created social imbalance away from the interests of plaintiffs and their lawyers. Elsewhere, he co-wrote a paper of the exact same name as the book chapter in which the authors claim *Daubert* has led to unreasonable legal demands of scientific certainty.

Michaels has also written in opposition to gun rights, invoking the Virginia Tech shootings as justification for employers to prevent employees from keeping firearms in their vehicles. On this point he stated, "In the U.S., we see an average of one gun-related homicide every 45 minutes, or 32 each day. These are usually treated as isolated incidents, until a horrific event like the Virginia Tech massacre reawakens the public and strengthens public health advocates who are attempting to prevent gun violence." Fn.8.

Michaels also claims that kids today are smarter than earlier generations because, "While children are still being exposed to lead, those born in the 1990s have higher IQ scores than those born twenty years earlier because the regulatory system forced the lead out of gasoline." David Michaels, *Doubt is Their Product*, OXFORD UNIVERSITY PRESS 2008, at 38.

NomineeAlert

THIS ALERT IS A SERVICE OF
AMERICANS FOR LIMITED GOVERNMENT
9900 MAIN STREET
SUITE 303
FAIRFAX, VA 22031
703.383.0880
WWW.GETLIBERTY.ORG