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Lesson from BP Disaster: Federal Government Not Prepared to Make Sound and Timely Safety Policies for Cleanup Workers, CPR Report Says

Noting that Government Needed Weeks to Develop Worker Safety Plans, Report Calls for Including OSHA in Pre-Disaster Response Planning

(Washington) - The BP Oil Spill demonstrated that the federal government is not currently prepared to make real-time decisions about safety protections for cleanup workers when the next disaster strikes, says a new report released today by the Center for Progressive Reform (CPR). In *From Ship to Shore: Reforming the National Contingency Plan to Improve Protections for Oil Spill Cleanup Workers*, the research group presents recommendations for how federal agencies can prepare now to improve safety decision-making response times.

The Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) are constrained to limited roles for planning for and implementing regulations related to oil spill disasters under the Oil Pollution Act of 1990, the statute governing oil spill response. As a result, the federal government's advance planning for disaster response doesn't adequately incorporate agency expertise best suited for planning for worker safety issues in disaster cleanup.

"When cleanup crews first got to work on the beaches and on the water, there was no carefully considered plan for what protections they needed for the oil fumes and the heat," said Rena Steinzor, President of CPR and a professor at the University of Maryland School of Law. "The EPA and the Coast Guard should include OSHA in their disaster response planning so that the next time disaster strikes the worker safety decisions don't get made on the fly."

The CPR report says that OSHA and NIOSH staff developed workable solutions to problems with training, air monitoring, personal protective equipment, and recordkeeping in the weeks following the spill, demonstrating how invaluable their expertise is during the response—and would have been in developing initial regulations, had they been involved in that process.

The report's recommendations include calling for the White House to seek an emergency, supplemental appropriation for OSHA to replace the substantial extra resources consumed by this unprecedented response. "OSHA had no choice but to spend money to address this crisis, even though it was already severely underfunded," Steinzor said. "But it shouldn't be forced to sacrifice the protection of the rest of the nation's workers because of BP."

In the wake of the spill, too many cleanup workers in the Gulf were given inadequate training on the use of personal protective equipment. Employers and individual workers were thus left to determine on their own how to resolve the difficult question of what level of protections, such as respirators, to use.

The report also notes that decisions were complicated by an insufficient understanding of the chemical exposures faced by workers engaged in various tasks. No one knew the precise contents of the oil dispersants applied by BP because they were protected for several months as confidential business information under EPA's industry-friendly trade secrets policies. Moreover, toxicity testing required by the Oil Pollution Act only assessed ecological toxicity, not toxicity to human health.

The report credits OSHA and NIOSH for quickly moving additional personnel to the region to conduct site visits; creating a Memorandum of Understanding with the federal on-scene coordinator to give OSHA further authority beyond the existing three nautical mile limit from the shoreline; and developing a "matrix" of various tasks in which cleanup workers were engaged, a model that could be used to improve planning for future oil spills.

CPR's report recommends:

- EPA and the Coast Guard should require Regional Response Teams and the oil industry to develop a matrix of likely or foreseeable cleanup tasks for each level of spill, in consultation with NIOSH and OSHA. The cleanup task matrix should be the basis for planning task-specific levels of training, air quality monitoring and sampling protocols, and personal protection equipment choices.
- EPA and the Coast Guard should include OSHA in the chain of command that approves Regional Contingency Plans and site-specific contingency plans to ensure that cleanup workers' health and safety are properly addressed.
- EPA and the Coast Guard should require a NIOSH Health Hazard Evaluation for any spill that demands a significant number of cleanup workers or long-term cleanup efforts, paid by the company responsible for the spill.
- As they revise the National Contingency Plan, EPA and the Coast Guard should consult with volunteers, employees of oil spill response organizations, and occupational health specialists who have been involved in major disasters including the Valdez, Prestige, and Horizon spills.
- To ensure that adequate training and worker protection are provided, regulators should permanently adopt the provisions of the June 10 Memorandum of Understanding between OSHA and the federal on-scene coordinator that guarantees OSHA's leadership is included in all consultations about the implementation of cleanup under the national and regional contingency plans.

The white paper was written by CPR Member Scholars Rebecca Bratspies, Alyson Flournoy, Thomas McGarity, Sidney Shapiro, Rena Steinzor, and CPR Policy Analyst Matthew Shutz. It will be available at:

http://www.progressivereform.org/articles/BP_OSHA_1006.pdf.

The Center for Progressive Reform (www.progressivereform.org) is a nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. Visit CPR on the web at www.progressivereform.org and read CPRBlog at www.progressivereform.org/cprblog.

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