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As Thousands Still Die on the Job Every Year, New CPR Report Recommends Congress Update Decades-Old Safety Laws

Proposed Reforms Would Empower Workers on Safety Practices and Enable OSHA to Issue Heftier Fines to Deter Employers from Endangering Workers

(Washington) – Congress should make wide ranging reforms to the primary worker safety law, which has not been significantly updated since its passage more than 40 years ago, says a new white paper published by the Center for Progressive Reform. The report proposes changes to the Occupational Safety and Health Act, its implementing regulations, and agency policies that could better empower workers to ensure safe and healthy workplaces.

“Trying to protect workers with the same 40-year-old law is just not good enough for the modern workplace,” said report co-author Thomas McGarity, a CPR board member and Professor at the University of Texas School of Law. “Workers are much safer today than they were decades ago, but thousands still die from workplace injuries every year. Congress needs to let go of the status quo and enact broad reforms that will save lives.”

The Occupational Safety and Health Act, passed in 1970, brought significant gains in worker safety, but it has not proved nimble enough to achieve its purpose of providing safe and healthful workplaces. Today, approximately 4,500 workers are killed each year by traumatic injuries, and tens of thousands die from exposures to toxic chemicals at work. In addition to the human toll, the financial cost of these wholly preventable accidents and illnesses is staggering, approaching \$250 billion per year in direct and indirect costs. The Occupational Safety and Health Administration (OSHA), meanwhile, has a small budget, with only one inspector for each 60,000 workers covered by the agency. Current law allows it to penalize an employer only \$7,000 for a serious violation, or \$250,000 for a willful violation that kills a worker. As a result, negligent employers whose failures have resulted in deaths or serious injuries on the job often pay fines so small that they have no real deterrent effect at all.

The CPR paper, [*The Next OSHA: Progressive Reforms to Empower Workers*](#), provides a wide-ranging blueprint for how a revised safety law could reduce the many deaths and injuries that still occur. Among the recommendations:

- **Allow harmed workers to directly sue employers.** Under current law, workers can’t directly commence legal action against an employer that is breaking the law; they must make a formal complaint to OSHA and rely on OSHA to ensure compliance with the law. While OSHA is generally responsive to workers’ complaints, workers should not have to

rely on an underfunded agency to redress serious health and safety issues. Many other existing health and safety laws already allow such suits.

- **Increase criminal penalties.** If an employer willfully violates an OSHA standard and causes a worker's death, the crime is a misdemeanor carrying a maximum of six months in jail. Willful violations of the law that lead to a worker's death are tantamount to homicide, and should be treated as such. But the current minimal penalty creates little incentive for federal prosecutors to pursue criminal prosecutions in light of their resource constraints and competing incentives to pursue other cases that involve long prison-term felony cases. Congress should authorize felony convictions, multi-year jail terms, and large financial penalties for the individual corporate officers who are responsible for creating conditions that lead to the death or serious injury of a worker.
- **Apply the responsible corporate officer doctrine to violations of the OSH Act.** The doctrine enables the government to hold high-level corporate officials criminally responsible for violations of public health and welfare statutes. It has been used in several contexts, but not yet to protect worker safety. No change to the law is required.
- **Increase civil penalties.** OSHA's penalty limits have not been updated for two decades, and are not indexed to inflation. As a result, the deterrence effect of the penalties has decreased over time. Congress should increase the maximum penalties and index them to inflation. And it should give workers additional authority to participate in enforcement proceedings.
- **Allow OSHA to issue administrative compliance orders.** OSHA should be authorized to order employers to immediately eliminate hazardous conditions; the delay in waiting for government attorneys to build and prosecute criminal cases leaves workers in harm's way.
- **Strengthen education and training requirements.** The education and training programs available to U.S. workers are a haphazard patchwork. A regulatory program should more precisely delineate rights, responsibilities, and guidelines.
- **Let workers participate in enforcement proceedings.** Workers need greater opportunities to be a part of the negotiations that affect settlement agreements between OSHA and employers cited for violations. Currently, workers and their representatives can only challenge one aspect of an agreement, the length of time allowed for abating hazards. Congress should allow workers to object to any terms of the deal that affect workers' health and safety.
- **Require corporate officers to report dangers to workers.** Congress should require corporate officers to notify workers when they have knowledge of imminent dangers at a company worksite.
- **Increase OSHA's budget through user fees.** Many agencies, such as FDA, receive part of their funding from fees paid by regulated parties. Congress should adopt a user fee system to support those parts of OSHA that bring a direct benefit to employers. The Voluntary Protection Program (VPP) should be the start; the program costs OSHA money and expertise but delivers benefits mainly to employers in the form of reduced workers' compensation premiums.
- **Eliminate the split-enforcement model.** Unlike most agencies, OSHA does not have full enforcement power in its domain; it shares this responsibility with a Review Commission. That model is unnecessary and less effective; Congress should shift adjudicatory power into the Department of Labor.

- **Revamp the rulemaking process.** The process should be updated to give workers a stronger voice in setting priorities, restructured to ensure balanced access and input to the process, and streamlined to allow for faster finalization of new rules.

The white paper was written by CPR Member Scholars Martha McCluskey, Thomas McGarity, Sidney Shapiro, and Rena Steinzor, and Senior Policy Analyst Matthew Shultz. It is available at: http://www.progressivereform.org/articles/Next_Generation_OSHA_1207.pdf

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