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Rise in Contract Labor Brings New Worker Safety Threats, Demands New Government Policies in Several Dangerous Industries, Says CPR Report

Federal Policies Should Target Safety Lapses for Contingent Workers in Farming, Construction, Warehousing, and Hotels

(Washington) – American industry's increasing reliance on “contingent workers” to fill hazardous jobs poses a growing threat to worker safety that demands new government policies, says a new report from the Center for Progressive Reform (CPR).

“Whether it’s day laborers doing construction jobs or hotel housekeepers on temporary contracts, safety dangers are magnified because contingent workers don't always get the training they need, and because employers don't have a permanent responsibility to the worker,” said report co-author Martha McCluskey, Professor at the University at Buffalo Law School and CPR Member Scholar.

“Contingent workers are disproportionately racial minorities and often come from vulnerable socio-economic backgrounds,” she continued. “Increasingly, employers are treating them as expendable, accepting high injury rates because the company is largely insulated from the economic consequences. As a result, contingent workers suffer frequent injuries on the job. Federal worker safety policy needs to take on the challenge of protecting this work force, or contingent workers will be left to the mercy of employers who have little economic incentive to protect them.”

According to the report, because employers who hire workers on a contingent basis do not directly pay for workers’ compensation and health insurance, they are likely to be insulated from the insurance premium rate increases that would ordinarily follow frequent workers’ injuries. As a result, employers of contingent labor can escape the financial incentives that are a main driver of business decisions to eliminate hazards for other workers.

The CPR report, [*At the Company's Mercy: Protecting Contingent Workers from Unsafe Working Conditions*](#), looks at worker safety threats in four industries where contingent work is growing or already common: construction, farm work, warehouse labor hired indirectly through staffing agencies, and hotel housekeepers working through temp firms. In each case, employment can be contingent on short term fluctuations in demand. Too often, workers in these fields see little job security, low wages, minimal opportunities for advancement, and, all too often, hazardous working conditions. When hazards lead to work-related injuries, the contingent nature of the employment relationship can exacerbate the negative consequences for the injured worker and society. The worker might quickly find herself out of a job and, depending on the severity of the injury, the prospects of new employment might be slim. Employer based health insurance is a rarity for contingent workers, so the costs of treating injuries are typically shifted to the worker or the public at large.

The report recommends reforms that the Occupational Safety and Health Administration (OSHA) could make under current laws as well as amendments to the occupational safety laws that would require congressional action. Among the recommendations:

- **Empower workers to challenge employers in court:** Congress should amend the Occupational Safety and Health Act to include a private right-of-action that allows any person to bring suit in federal court against any other person who violates provisions of the statute or its implementing regulations. Many other major health, safety, and environmental laws provide for such “citizen suits.”
- **Improve education and training:** Contingent workers are often thrust into new jobs for which they have little formal training. OSHA should establish rules to ensure that employers provide workers a minimum level of job- and site-specific training about their assigned tasks, known hazards, relevant protective equipment and practices, and the proper methods for reporting hazards and injuries. In addition, OSHA should expand funding opportunities for community organizations to provide education and training programs that address the specific vulnerabilities and barriers facing contingent workers.
- **Strengthen enforcement.** OSHA should conduct “sweeps” of the industries where contingent workers are most prevalent, issuing enhanced penalties against employers that have large numbers of contingent workers and fail to make special accommodations for those workers in the firms’ health and safety programs.
- **Issue ergonomics standards.** OSHA should craft ergonomics standards for specific industries, beginning with the industries in which contingent workers suffer high rates of musculoskeletal injuries. Although an attempt to issue industry-wide ergonomics rules failed twelve years ago, narrower rules are both feasible and legal under the Congressional Review Act.
- **Limit Voluntary Protection Program.** OSHA should revise its criteria for entry into the Voluntary Protection Program so that participating firms do not use significant numbers of contingent workers in high-hazard jobs.
- **Expand research.** In conjunction with the National Institute for Occupational Safety and Health (NIOSH) and the Bureau of Labor Statistics (BLS), OSHA should develop a clearinghouse for information concerning the health hazards in industries where contingent workers are most prevalent.
- **Enhance foreign-language capabilities.** OSHA should continue its efforts to develop staff able to communicate effectively with workers who have limited English proficiency. The agency should also continue developing relationships with foreign consulates that can help OSHA with education, training, and enforcement.

The report was written by CPR Member Scholars Martha McCluskey, Thomas McGarity, and Sidney Shapiro, and Senior Policy Analyst Matthew Shultz. The report is available on CPR’s website at:

http://www.progressivereform.org/articles/Contingent_Workers_1301.pdf

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