

Perspective on the Tragedy at the World Trade Center

Joel Shufro*

KEY WORDS: *worker health; OSHA enforcement; occupational health standards*

No one was prepared for the tragedy that occurred on September 11th. The loss of life, the collapse of two enormous buildings were overwhelming. No one could have been fully prepared. Agencies with responsibility for protecting the public health did the best they could, working day and night under the most difficult conditions. They triaged; dealing with what they thought were the worst risks first.

Our government has rarely invested enough money in building the infrastructure for environmental health and occupational health. In fact, we have dis-invested over the last two decades in those agencies that have responsibility for public health. We were not only unprepared and overwhelmed, agencies with responsibility to respond to such crises were, and still are, underfunded and understaffed.

The extraordinary circumstances of the collapse demanded an extraordinary response from our government. The Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), Public Employees Safety and Health (PEOSH), the New York Department of Health (NYDOH), New York City Environmental Protection Agency (NYCEPA) all attempted to use regulatory frameworks of rules and regulations that are inadequate to protect the health and safety of workers and community residents in good times. In the context of the collapse of the Twin Towers it was apparent that they were ill-prepared to adequately protect the health of workers and community members.

The New York Coalition for Occupational Safety and Health (NYCOSH) has concerns relating to the failure of

government agencies to utilize their own rules and regulations to protect and educate the public.

Let me list some of our concerns:

1. There is a need for a new regulatory framework regarding potentially toxic exposures:

Despite reassuring comments by these agencies (e.g., Christine Todd Whitman, www.epa.gov/wtc/stories/headline), workers in and around Ground Zero and office workers and community residents whose apartments and offices were contaminated by dust were exposed to toxic substances that posed a threat to their health and safety. In each case, the applicable standards were outdated or non-existent. Whether we are talking about EPA's definition of asbestos containing material (1%) or OSHA's asbestos standard, the standards do not protect workers or community residents. Government standards are a compromise between the scientists and industry; they are not based solely on the science.

The crisis did reveal significant gaps in these regulations. First, for office workers returning to contaminated offices, there was no re-occupancy protocol. Workers who returned to work had no recourse but to rely on their employer's assertions that their offices were cleaned appropriately. We are aware that some offices were properly abated, but we also know that many offices were not (Wall Street Journal, citations here). Second, residents, including those with young children, were left to their own devices; they were given minimal guidance on what constituted a "safe environment." The EPA, disclaiming any responsibility for indoor contamination, deferred to the New York City Department of Health, which advised apartment dwellers to clean up by using a mop and wet rags.

2. Rather than use their position as a bully pulpit to provide the public with information they could use to

New York Committee for Occupational Safety and Health (NYCOSH), New York, New York
*Correspondence to: Joel Shufro, New York Committee for Occupational Safety and Health (NYCOSH), 275 Seventh Avenue, New York, NY 10001. E-mail: jshufro@nycosh.org

Accepted 6 September 2002
DOI 10.1002/ajim.10155. Published online in Wiley InterScience
(www.interscience.wiley.com)

make informed decisions, the agencies saw their role as reassuring the public or said little.

From the outset, government agencies, including EPA, OSHA, PESH and the New York City Department of Health, made re-assuring statements about the safety of the environment without adequate data. These statements, as one official bluntly told me off the record, were designed to “reduce hysteria,” they were designed for “crowd control.” Although some agency staff tried their best to qualify, clarify and disavow the statements of their agency heads, the agencies themselves never retracted their initial reassuring statements. The discrepancy between these official statements and the illnesses experienced by workers and community residents created a serious credibility gap that has not been closed—and in our estimation has bred contempt and cynicism, if not derision, among the public and in important segments of the public health communities.

The EPA, OSHA, and PESH now presume that the dust released by the collapse of the Twin Towers including asbestos-containing material. However, it was not until early February that OSHA, for example, made this presumption public and then only in a letter responding to an inquiry from the Laborers International Union of North America. There was no public warning and the agency took no step to publicize this critical information. Why didn’t OSHA, EPA or the New York City Department of Health hold a press conference and put out best practice protocols for cleaning up offices that would, at a minimum, give office workers and residents a standard to which they could have held their employers? A public announcement about the asbestos-containing character of the dust—in English and Spanish—might have had dramatic impact on the day laborers who were hired to clean up lower Manhattan office buildings without appropriate equipment and no training.

3. The absence of strong enforcement and leadership on the part of EPA, OSHA, PESH, the New York City Department of Health and New York City Department of Environmental Protection resulted in unnecessary exposure of workers and community residents to toxic substances. We also believe that such action has set a bad precedent.

I will give one example. OSHA claimed it lacked jurisdiction in a rescue operation under the National Response Plan which prevented them from enforcing their standards—a position we believe is legally incorrect. During the entire cleanup operation, no OSHA standards were enforced on the site. We are concerned about the precedent OSHA set by failing to enforce the law and its standards on the World Trade

Center site. Our understanding of the law requires the agency not to interfere with a rescue operation. However, it does not require the agency to suspend enforcement of its regulations as OSHA did. While the agency devoted considerable resources to insure that work at this dangerous site proceeded safely—and it is truly an achievement that no one was killed on this job—we are greatly concerned that this model returns us to the pre-OSHA days of voluntary compliance. We understand that extraordinary times require extraordinary measures. But extraordinary circumstances are not an excuse for a government agency to violate the law and weaken worker protections.

We are also concerned that the partnership that OSHA entered into with the unions on the site does not follow its own criteria and compromises worker protections. We fully trust that the unions on the site are representing the interests of their members, but again, we believe this is a bad legal precedent and OSHA does not have the authority to enter into agreements that violate its own directives.

Congressman Jerrold Nadler and the EPA Ombudsman, Robert Martin have detailed during hearings, the EPA’s failure to fulfill its legal mandate. New York City’s Department of Environmental Protection, which claims that dust from the Trade Center must be presumed to be asbestos-containing material and must be treated as asbestos has received approximately 35 filings for asbestos abatement jobs in lower Manhattan. Yet the Department has not issued one, not one, violation.

4. A need for uniform sampling protocols and a centralized collection of all testing results.

From the outset, there was confusion about appropriate testing protocols. We do not believe that the sampling strategy was adequate or test results were fully reported to the public. For example, the EPA relied almost exclusively on the results of outdoor sampling to characterize risk—a method which does not provide an adequate characterization of indoor risk levels. Currently, testing is being done in buildings throughout the area by private companies, but there is no central repository to which the data is being reported or being mapped. We have learned that there is mercury contamination at 90 Church Street and that there is dioxin contamination in buildings owned by Manhattan Borough Community College, but there is not a systematic gathering of data of private testing so we can understand the patterns of exposure or contamination. *The public is entitled to all of the data in real time and presented in an understandable manner so that people can make informed decisions.*

5. Government agencies appear to have ignored their own precedents.

Twelve years ago, when asbestos-containing material contaminated buildings in Gramercy Park as a result of a steam pipe explosion, the New York City Department of Health declared a public health emergency, evacuated buildings, wrapped the buildings in plastic to prevent the dust from contaminating the area, sent in professional asbestos abatement cleaning companies and took five months to clean the apartments. The percentage of asbestos in the mud which was sprayed into buildings from the explosion was the same as that found in samples from the World Trade Center—only in Gramercy Park it is estimated that 200 pounds of asbestos was released whereas it is estimated that approximately 5,000 tons of asbestos was released at the World Trade Center.

EPA intervention in Libby, Montana provides a dramatic contrast to its posture here in New York City. While conditions are qualitatively different than in the area surrounding the World Trade Center—the difference between the protocols followed in the two cities raises important questions. For example, in Libby, the EPA has spent more than \$30 million in the last 2 years to decontaminate the outdoor environment in Libby, Montana. The EPA is expected to shortly declare a public health emergency in Libby in order to gain the authority to decontaminate private homes. In lower Manhattan, by contrast, EPA has only recently, after

intense pressure, established an indoor air task force to examine the contamination of indoor air.

A driving force and priority in this crisis was to re-open the downtown area especially Wall Street. Public health was not government's main priority when the Mayor announced that Wall Street would be open the following Monday—only six days after the collapse. These decisions were made at the highest levels—probably at the White House. Politics, not public health, was in command.

The AFL-CIO's poster for Worker Memorial Day for 2002 is a photograph of workers at Ground Zero. We do not know when the shot was taken. Not one worker is wearing appropriate protective equipment. The workers who have worked at Ground Zero were on a mission to save their brothers and sisters in one of our nation's most horrible tragedies. These workers were heroes. But like workers who rush into confined spaces to save their brothers or sisters and are overpowered by toxic substances—we hope that they do not become martyrs—6 months, next year or 10 years from now.

Of the many lessons learned we need to reiterate the dynamic that public health and worker safety are based upon stringent government standards, strong enforcement, and an educated, informed, active, organized workforce and public. We need to go back to basics.