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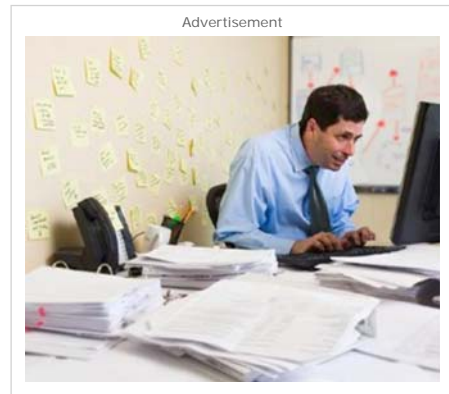
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BP workers exposed to illness, injury from cleanup

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ROBERTO CENICEROS

VENICE, La.—BP P.L.C. and its contractors face an array of worker injury claims as well as questions over workforce safety practices as they marshal a massive cleanup operation in the Gulf of Mexico.



The sheer volume of workers used in the onshore and offshore cleanup operations and the toxic substances involved make workers compensation claims inevitable, experts say.

And as the claims flow in, insurance underwriters may tighten their offerings of Jones Act injury claims coverage for oil-industry risks, they say.

The range of jobs required to limit damage caused by oil gushing from the ruptured pipe in the Gulf of Mexico—including ocean operations and land-based work—will lead to claims under the workers comp statutes of several states and under federal laws, insurance and legal sources said.

A BP spokesman said the company has 22,000 “hirees” and volunteers working on oil cleanup efforts, but he could not say how many are BP employees and how many are workers for

contractors, who could be responsible for worker injury claims.

Whether an injury occurs on land or at sea will determine whether workers file state workers comp or federal claims, sources agree. Meanwhile, environmental and chemical exposures will determine the types of injuries reported, sources said.

“Just the day-to-day movement of that many workers is going to create incidents,” said Gabriel J. Veninata, a workers comp defense attorney at Hailey, McNamara, Hall, Larmann & Papale L.L.P. in Metairie, La.

“There is no doubt about it, and then when you toss into the mix the toxicity of the materials they are working with then you have additional claims beyond the normal slipping on the deck of a boat or on the dock. Absolutely, there are going to be claims and that belies the bigger picture of any type of toxic exposure.”

The Occupational Safety and Health Administration has warned that cleanup workers face hazards caused by oil byproducts, chemical dispersants, drowning, heat, and snake encounters, among others.

“You are also going to see some benzene exposure (claims) because there is benzene in that oil and it’s getting released into the air,” said Mark Noonan, a managing principal at Integro Insurance Brokers Ltd. in Boston.

“By the time (the benzene) gets to shore, a lot of it is evaporated, but will you see people with bronchial issues or other inhalation problems? I think so,” he said.

Benzene is a natural part of crude oil that can cause dizziness, irregular heartbeats, unconsciousness, and even death, according to the Centers for Disease Control and Prevention.

But most worker injury claims likely will be “relatively minor to moderate” and their dispersal among several state and federal systems means they likely will not change terms for purchasing state workers compensation insurance or Jones Act coverage, Mr. Noonan said.

Some insurance market observers say, however, that BP-related deaths and injuries could affect Jones Act markets.

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The act applies to workers injured on vessels and, in some cases, oil rig workers, allowing them to file lawsuits in federal court, several sources said.

Underwriters may tighten Jones Act excess coverage availability for energy companies because of the Deepwater Horizon rig disaster, which resulted in 11 deaths and caused the Gulf spill, and because of claims workers now employed in the cleanup effort are likely to file, said Mark Oakley, managing director in Houston for Aon Global Energy, a unit of Aon.

"We are all waiting to see what will happen within the marketplace, whether we are going to see any rate increase," Mr. Oakley said. "Certainly this type of incident gives rise to awareness by underwriters, especially in the Jones Act area. I believe we are going to see a lot of our excess underwriters require larger attachment points."

Gulf of Mexico events underscore that low-level Jones Act excess policies are much more exposed than their pricing suggests and that losses within certain scenarios are not as remote as previously thought, agreed Leo Magrath, marine practice leader for Towers Watson & Co. in New York.

"Logically, this would indicate that either the attachment point is too low, the price is inadequate, or some combination of both," Mr. Magrath said.

In addition to state workers comp or Jones Act claims, injured workers could file Federal Longshore and Harbor Workers Compensation Act claims, said Charles E. Lavis, an attorney at Lavis Law Firm in New Orleans.

The U.S. Department of Labor administers the LHWCA, which typically covers workers loading and unloading boats and those working on outer continental shelf projects like oil rigs.

Volunteer workers suffering from injuries or illnesses also could file personal injury or general liability claims, as they would not be limited to the exclusive remedy provision of workers comp laws, Mr. Oakley added.

Many local boat owners and contractors hired to help with the cleanup are looking to purchase their own coverage for worker injuries, said Michael Lapeyrouse, president and CEO in Mobile, Ala., for American Equity Underwriters Inc., which provides state workers comp, Jones Act and Longshore insurance.

After the 1989 Exxon Valdez oil spill, some of the 11,000 workers participating in cleanup efforts in Alaska filed federal and state claims.

A National Institute for Occupational Safety and Health assessment of Alaska oil cleanup injuries conducted in early 1990 found about 1,800 state workers comp system claims filed in 1989, including one for a death caused by a heart attack and one for a worker crushed to death by a "dumb waiter." There were 800 claims for sprains and strains, cuts, or contusions and 250 for bronchitis-type respiratory problems.

Alaska's workers also complained for years afterwards of illnesses they claim were caused by dispersant chemicals.

Recent media reports say some Gulf of Mexico cleanup workers have complained about nausea, headaches and coughs they believe are caused by oil fumes and chemical dispersants.

Meanwhile, a May 25 OSHA memo expressed "growing concern over significant deficiencies in BP's oil spill response operations related to worker safety."

The memo said OSHA found hundreds of workers at one site did not have proper safety training. It also cited a lack of shade and cool drinks for some workers despite reported heat-related illnesses.

The deficiencies "present potentially grave consequences" for cleanup workers, the memo said. But OSHA said in a statement last week that BP has addressed many of those concerns.

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