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From the Vice President's Desk

Oil Refiners Fail to Learn from Past Safety Incidents, Near Misses

You would think that after the March 2005 explosion and fire at BP's Texas City refinery that killed 15 workers and injured 180 others that the oil industry would learn from the incident and be serious about addressing the root causes that led to the disaster.

Unfortunately, that's not the case as Kim Nibarger from the USW Health, Safety & Environment department points out in his column for this edition. The industry keeps repeating the same old mistakes over and over and getting the same results: leaks, fires and process upsets.

Here are examples of the latest fires: There was an early morning fire June 9 in a vacuum unit at Valero's St. Charles, La., refinery. The fire was put out about a half hour after being reported and fortunately there were no injuries.

In mid-May there was an explosion and fire in the ethylene complex at the Sunoco refinery in Marcus Hook. The fire burned into the next morning. Our people responded quickly; the union fire chief was the first emergency responder on the scene. It's interesting that the company, during negotiations, had wanted to eliminate the union fire chief position for the night shift and have the outside community fire department be the first responders. Luckily, no one was injured and the surrounding neighborhood did not have to be evacuated.

OSHA Sees Repeat Problems

OSHA is seeing the same problems repeatedly at refineries as it inspects them as part of its national emphasis inspection program. OSHA announced the program in 2007 after an investigation by the U.S. Chemical Safety Board faulted the agency's enforcement of safety rules at BP's Texas City refinery.

Acting Assistant Secretary of Labor for OSHA Jordan Barab said in a June 10 statement from OSHA that the agency's inspection teams were repeatedly seeing the same problems at refineries during the first year of the emphasis program, and they had to remind the companies of the importance of compliance with OSHA standards that are designed to save lives.

In the first year of the inspection program OSHA issued nearly 350 process safety management (PSM) citations to 14 refiners. The OSHA statement said the agency sent letters to the management of more than 100 oil refineries, providing them with data on compliance issues found under the emphasis program and urging them to comply with the (PSM) standard. This standard requires employers to develop and incorporate comprehensive, site-specific safety management systems to reduce the risks of fatal or catastrophic incidents.

American Petroleum Institute Response

The American Petroleum Institute (API) responded to OSHA's statement with its own statement. The trade group went on the defense and sounded like it was in denial about what OSHA inspectors have seen. The statement said "U.S. refiners have maintained a strong safety record…." Then it went on to say that a refinery employee is four to five times less likely to be injured on the job than employees in other manufacturing sectors and that the injury rate has steadily decreased.

The statistics the API cited are misleading because they don't account for the injuries, illnesses and deaths of contractors, only refinery employees. Refiners are not required to report what happens to contractors who work at the refineries.

A low injury rate is not indicative of a safe workplace. Take BP's Texas City refinery. It had a low injury rate at the time of the 2005 explosion and fire. Workers there knew the place was dangerous and that it was only a matter of time before a major catastrophe occurred. Subsequent investigations by the Chemical Safety Board, an independent review panel, our union and OSHA revealed there wasn't a safety culture in place, the PSM standard wasn't followed, and the company didn't pay attention to or learn from its previous safety investigations.

The API statement goes on to say that "refineries strive to eliminate hazards through rigorous process hazard analysis and aggressive closure of action items arising from those analyses. Any incident or near miss is thoroughly investigated, and corrective actions are implemented to prevent recurrence. Refiners also take steps to ensure that process equipment is maintained and operated in a safe and reliable manner. The industry invests significant resources to train our work force on safe equipment operation as well as proper inspection and maintenance procedures."

If only reality was so good. If refiners were taking all this action we wouldn't be seeing leaks, fires and process upsets on a weekly basis. Our members wouldn't be rating the overall management of process safety systems at their sites as less than very effective like they did in our 2007 process safety survey. (The survey report is at www.oilbargaining.org under downloads.)

OSHA wouldn't be saying in its statement that some of its investigations involved plants "who failed to address their own process safety findings and recommendations, and failed to establish maintenance procedures for equipment such as pressure vessels and emergency shutdown systems."

Fair Playing Field Wanted

We're running into difficulties with the API concerning the number of stakeholders

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Oil Refiners Fail to Learn from Past Safety Incidents, Near Misses

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on the fatigue standard committee and the creation of performance indicators for process safety in the refinery and petrochemical industries. We've been meeting with them for months. The Chemical Safety Board (CSB) recommended that we work with the API to develop two new consensus American National Standards Institute (ANSI) standards.

In the development of each standard, the CSB says the committees should include representation of "diverse sectors such as industry, labor, government, public interest and environmental organizations and experts from relevant scientific organizations and disciplines."

API allows each committee member to exercise one vote which allows each oil company to be an individual stakeholder on the committees. When that happens, the company representatives have the majority on the committees. That totally goes against the spirit of the CSB's recommendations. It would be difficult to get a fair standard on a consensus basis with a majority of the committee leaning toward the interests of employers. The oil companies try to get by with as few regulations and mandates as possible. All we want is a fair playing field.

In regards to the fatigue standard, the oil companies are fighting us over a hard figure for the reduction of open schedules—the replacement of people when they get reassigned. What is happening is that when workers are reassigned, they are replaced by another employee who has already worked a full shift. The practice has lead to excessive overtime for the replacement employees.

Greater Transparency Needed

In the development of performance indicators for process safety, the CSB says the standard should identify leading and lagging indicators for nationwide public reporting as well as indicators for use at individual facilities. Methods for the development and use of performance indicators also have to be done.

Leading indicators are predictors of future safety performance based on selected criteria. Examples would be the level of worker involvement, worker observations, the number of overtime hours worked and the quality of training.

Lagging indicators are an after-the-fact measure of safety performance. Examples include the near miss rate and the number of fires, explosions, equipment malfunctions and leaks.

The API and industry are fighting us on the level of transparency and public reporting for process safety performance indicators. The goal of such transparency and public reporting is to allow refiners and petrochemical companies to learn from each other so accidents and catastrophic events are prevented.

This process also makes the companies more accountable to their workers and the communities where their refineries and petrochemical plants are located. It forces them to not just say they are being safety conscious, but to show they're actually doing something about it.

CSB Chairman John Bresland and our union will address the fatigue standard and PSM committees in July to try and work out these problems with the API and industry. Our union will either get the fatigue and PSM standards recommended by the CSB or we will work extremely hard to get these standards done through federal legislation.

After the July committee meetings, our union plans to look at the alternatives to accomplish our goal of a safe workplace.

Gary Beevers
International Vice President
Chair, National Oil Bargaining Program

Oil Industry Keeps Repeating Its Mistakes

By Kim Nibarger
USW Health, Safety & Environment Dept.

Leaks, fires and process upsets are happening on a weekly basis at our chemical, refining and gas plants. The failure of the facilities to adhere to the minimum requirement of safe operation directed by the government in the OSHA Process Safety Management (PSM) standard, found in the Code of Federal Regulations, 29, part 1910.119, has in some instances had deadly consequences. Keep in mind that this is no high performance program, but merely the bare minimum legal requirements.

Several incidents this past spring illustrate how companies are not learning from previous accidents.

A worker at the Exxon facility in Carson, Calif., died two weeks after burns suffered in a coker deheading accident. The industry knows this is an inherently dangerous operation and an anomaly in the refining industry where the mantra is keep it in the pipes.

We open the "pipes" every few hours in the coking process and treat this as a routine operation. As evidenced from the deaths and injuries over the years, this operation is anything but routine.

Many facilities have installed remote deheading devices and made other changes to the operation by learning from the Equilon coker fatalities of 1998. Yet many other companies have chosen not to upgrade their equipment, putting operations personnel needlessly in harm's way.

The Sunoco refinery in Philadelphia had a release of slightly over 22 pounds of hydrofluoric (HF) acid, which sent 10 contract workers to the hospital. There are inherently safer chemicals that can be used in the alkylation process, but Sunoco has chosen not to change over. The fact that there was a release would lead one to believe that there were other deficiencies at the facility.

Lessons Ignored

The U.S. Chemical Safety and Hazard Investigation Board (CSB) released its preliminary findings on the Bayer

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How to get The Oil Worker

If you are an oil worker and are not receiving *The Oil Worker* newsletter and would like to get it, please send your home e-mail address to International Vice President Gary Beever's administrative assistant, Julie Lidstone, at jlidstone@usw.org. Besides your home e-mail address, please state the name of the company you work for and your job title.

The Oil Worker comes out at least once per month and features information about oil bargaining, the oil industry, health and safety, oil unions from around the world and health care.

Oil Industry Keeps Repeating Its Mistakes

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CropScience chemical facility explosion and fire in Institute, W.Va. Two workers lost their lives in this accident. And what makes this worse, you could change the name from Bayer and substitute Union Carbide, Bhopal; BP, Texas City; or any of a dozen facilities and the root or causal factors would read the same. We are not learning lessons from prior incidents, even though they have been thoroughly investigated and the results shared.

The refinery national emphasis program which has been conducted at 20 sites (as of November 2008) covered under federal OSHA has generated a total of 456 citations. That is an average of 23 per site. If this doesn't sound like a high number, you need to remember that these are not full blown audits. The focus is not on the existence of documentation but implementation and observation of engineering practices, Process Hazard Analysis (PHA) and equipment deficiencies.

The top citations are for operating procedures (49), process safety information pertaining to equipment (47), PHA specific criteria (40) and mechanical integrity, inspection and testing (30). PHA recommendations, deficient equipment and Management of Change (MOC) implementation (16, 16, and 15) are the next three most cited. These items are root or causal factors in nearly every event involving highly hazardous materials that the USW has investigated.

Our Responsibility

It is up to us as operators to know what the company is required to do under the PSM standard and hold it accountable. One of the 14 elements of PSM is the requirement that the company consult with employees and their representatives on the development and implementation of the PSM elements and hazard assessments. Consult means to work together to develop, not tell the union and the employees what the company has decided.

OSHA has plans to implement a national emphasis program for chemical plants next year and based on the incidents we have seen in those facilities, we should not expect to see results any different from the refineries.

A chief process safety engineer for a large chemical company said he felt they (the chemical companies) have had the time to watch what is happening with the petroleum and refinery sector and will be more "audit ready." There is no mention of the chemical side learning anything from the refinery inspections to make chemical plants safer.

Material Needed for Website

We welcome material submitted by the oil locals for the oil bargaining website—www.oilbargaining.org. Besides covering oil and petrochemical negotiations, this site can contain news about the issues oil workers are dealing with at their plants and in their work lives and the activities of local unions.

Give us a short write-up on what your local achieved through local bargaining. We would be interested in any photos or videos of past or present mobilization activities to showcase the activism of our members.

Send material for the website to Lynne Baker at lbaker@usw.org; phone: (o) 615-831-6782; (cell) 615-828-6169. Be sure to include the name of the author (for written material), photographer and person who shot the video. For photos and videos please include a write-up describing the event.

Report All Incidents to USW Health, Safety, & Environment Department

Our union is beginning a project to fight for process safety improvements in the petrochemical and oil industries. We need your help in documenting the true state of safety in the refining, chemical, lube, marketing and transportation, terminal and pipeline sectors that we represent.

We need you to notify the USW Health, Safety & Environment (HSE) Department in Pittsburgh when there is a fire, explosion or serious equipment failure—regardless of the outcome—at your location

We also need you to notify the HSE department when you receive notice of an OSHA national emphasis program inspection being conducted or of OSHA or a state OSHA coming in for an inspection.

The national emphasis program OSHA is conducting at the federal and state levels appears to show a remarkable similarity among the sites which have undergone the inspections. There is a continuous listing of refinery events from equipment failures to flaring to fires. The first two events appear to be precursors to the last event.

Flaring indicates that there is a problem in the production process that has caused it to exceed its parameters and use a safety outlet. Too often we see flaring as a process control device and not a last line of defense for an equipment or process failure.

Equipment failures are also happening when turnaround times are extended and maintenance is delayed. A result of these failures is often a release followed by an explosion and fire.

If you have any questions about what to do, contact International Vice President Gary Beevers at (409) 838-1972 or gbeevers@usw.org.

National Oil Bargaining Continues Into Springtime

This past spring many of the oil bargaining contracts that were off-date from the Feb. 1 National Oil Bargaining expiration date were settled except for the ConocoPhillips agreement in Ponca City, Okla. Some of the contract settlements are included herein; the others will be in the next issue of *The Oil Worker*.

Marathon Oil, Texas City, Texas

Local negotiations at Marathon resulted in Local 13-1 members getting the National Oil Bargaining policy and improvements in sick pay, funeral leave and stillman pay. The members ratified the contract March 31. The USW represents over 125 workers at the facility.

ChevronTexaco, Salt Lake City, Utah

This contract covers from 160 to 170 workers and was ratified April 15. The National Oil Bargaining pattern was obtained, and changes were made in the scheduling for the maintenance department and job duties for operators.

Local 931 and the company decided to allow maintenance personnel to skip their two 15-minute paid breaks and go home a half hour early. This is being done on a trial basis and there is a possibility of going back to the two 15-minute breaks.

Nine new head operator jobs were created that are the highest paid classification in the contract. The head operator acts as a mentor for new operators, helps schedule overtime and vacation time, acts as a backup trainer for refresher training classes and picks up the slack if an operator is overloaded.

Any unit operator who is qualified to handle two control boards can get head operator pay. Presently there are 21 workers who are qualified to receive that pay.

The negotiations resulted in clear language on how job transfers would work and when they would be done. There is improved language on "banked" days, which are days off when the company cannot call an employee back to work. Workers can put a "banked" day next to their scheduled days off and be assured that they will not be called back to work during their entire time off.

New employees get a break in the new contract. By the end of the six-month probation period, a worker who is in question can get their probation period extended three months upon mutual agreement between the union and the company.

If a worker has less than 18 hours notice to work an overtime shift, he or she will receive a meal check under the new agreement.

Mike Gainsforth, who was Local 931's president during the negotiations, said the 2002 round of talks was "very brutal," but that "this one we really felt good about."

"We stepped up to the table to address the problems in the business and they (the company) stepped up to address our issues," he said.

Gainsforth said he felt the local issues were addressed.

"I think both sides felt like they won," he said.

Big West Oil Co. (Flying J), Salt Lake City, Utah

Big West Oil Co's bankruptcy was the backdrop for local negotiations between the company and the site's workmen's committee. Local 12-578 members ratified the contract April 16 and have been waiting for the bankruptcy court's approval of the negotiated pay increase.

Workmen's committee chairman, Jay Krek, said the creditors have approved the contract and are waiting for the bankruptcy judge's decision. Big West promised the union it would not void the contract during the bankruptcy period.

The company initially wanted a three-year wage freeze that the bargaining committee rejected. The company then proposed a wage freeze until April 16, 2011 at which time all hourly classification 8-hour base wage rates would increase 9 percent. In addition, a make-up compensation payment of 9 percent for each bargaining unit employee would be issued based on a 2,080-hour yearly schedule. Krek said people felt they were losing money overall because they usually work more than 2,080 hours.

Eighty-five percent of the membership voted on the company's proposal and rejected it by a 90% margin.

"I think it (the vote) sent a message that the members would not stand for what they (Big West) wanted to give us," Krek said.

Then the company moved on wages and offered the National Oil Bargaining wage pattern of a 3% increase for each of the three years in the contract.

Both sides agreed to delay the $2,500 signing bonus until Big West is out of bankruptcy or April 2011, whichever comes first.

Wages were the only topic of discussion during the local negotiations, except for contract language clean-up and modification for the dues check-off language so that it would be consistent with the USW language.

Krek said he thought everyone was happy with the agreement.

"What do you do when someone is in bankruptcy? How much can you squeeze them? I think we did pretty good," he said.

ExxonMobil, Baton Rouge, La.

Workers at the ExxonMobil refinery in Baton Rouge, La., negotiated for the first time as members of an international union and the National Oil Bargaining program.

"I think being a member of the USW and the national oil policy group changed the way Baton Rouge management negotiated," said Local 13-12 President Randy Frederic. "I don't think we would have achieved what we did in local bargaining if we had not been part of an international union. We accomplished a lot."

Besides obtaining the National Oil Bargaining pattern, the local achieved time limits on third and fourth step grievances, which is important in wrongful termination cases, Frederic said.

He said that when the company and the union cannot decide an issue after the fourth level, it goes before an arbitrator to decide the issue.

Before this new contract the local had to go through the court system to compel the company to arbitrate and it took a lot of the local's treasury to do this, Frederic said. In particular, the company would not honor the side agreements it signed with the union and would pick and choose which agreements would be subject to arbitration.

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National Oil Bargaining Continues Into Springtime

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Now, five side agreements are amended to the contract. The union's long standing position is all letters and commitments are subject to arbitration. All future agreements between the company and the union will be amendatory to the contract and subject to arbitration, Frederic said.

He said that as an independent union prior to its affiliation with PACE in 2003, Local 13-12 had to beg for the National Oil Bargaining pattern and received only the wage package. In 2007 the local voted to become part of the National Oil Bargaining program.

Frederic said the local overwhelmingly ratified the new contract.

ConocoPhillips, Ponca City, Oklahoma

The contract at the ConocoPhillips refinery in Ponca City, Okla., continues to be on a rolling 24-hour extension. It expired March 31. International Representative Ernie Anderson said several local issues continue to be unresolved, with much work still to be done.

The key issues remaining concern a fatigue standard that the industry has not developed yet with the USW and other stakeholders; standby language for operators that the company proposes to negotiate mid-term during the new agreement; removal of job classifications; language on the purchasing of vacation time; lost R&D jobs; overtime; and meals for people being worked beyond their shift.

The company is insisting on forcing the local into midterm negotiations on a fatigue standard that may or may not happen during the term of the new agreement.

"We have told them that they need to make a proposal if they have one or remove it from the table." Anderson said. "We believe this is bad faith bargaining because there is no way to define to our membership what they are voting on and what the outcome could be and what all it might involve."

He said the union has filed a National Labor Relations Board charge because the issue around the fatigue standard has prevented the bargaining process from working as intended.

ConocoPhillips had a proposal to add standby language for operators that would require them to be on call without pay three of their seven days off. The company withdrew it but said it plans to bring it back mid-term during the discussion over the fatigue standard.

Standby language is already covered in the contract under Article 19.7 that obligates the parties to work through any issue that comes up that may have a negative impact on the 12-hour shift.

Removal of Job Classifications

ConocoPhillips has three proposals to remove language and classifications from the contract that are currently in arbitration or the courts. Management wants to remove the Lead Operator and Still Operator classifications and the language that is associated with them from the contract. Both issues are in the courts in an attempt to force the company to arbitrate the pending grievances, Anderson said. He said the company takes the position that this is a management rights issue and refuses to arbitrate.

The third proposal concerns language on the purchasing of vacation time. A grievance on this issue was scheduled for arbitration last November and ConocoPhillips cancelled it, claiming that the human resources guy was in negotiations at another plant.

"The truth is the company did not want a decision prior to these negotiations so it could attempt to remove the language first," Anderson said.

He said the R&D group has been told their jobs might be gone during the term of the new agreement, so the union has a proposal to obligate the company to transfer qualified employees by seniority to the refinery instead of hiring from the outside. The parties are still working on this issue.

Filling Supervisor Positions with Overtime

"We are having a major issue with the company working our members as supervisors and filing the openings by overtime. When the company took away the lead-operator position, it told us that from now on they would use a fifth area lead (supervisor) to cover any time that a supervisor would be off. Now the company states that it was not them that made the agreement; the person who made the agreement is no longer at the company. But we don't care who made the agreement, it was made by a management person on behalf of the company. The union has three proposals surrounding this issue," Anderson said.

The union has a proposal to add an Advanced Operator position. This person would assist in not only the overtime issue, but add to the safety of the unit as well.

There have been problems with getting meals to members who are forced to work beyond their shift, so the local has a proposal to provide them with a hot meal or money in lieu of that.

"The bargaining committee has told the membership that the company proposals are life changing and have a negative impact on the quality of life for our membership," Anderson said. "The membership appears to be firmly behind the committee and the committee is definitely united as one in our path forward."

What's Happening at your Site?

Send us articles about the issues and activities your local is engaged in. Such pieces should be short and to the point. We especially like quotes from the membership. We'll accept articles that are up to 500 words in length.

Keep in mind that we reserve the right to edit contributions for length and clarity. Be sure to put your name, local union number and phone number where you can be contacted during the day or evening in case we have questions.

If there are any issues you would like to see covered or questions about bargaining that you have, we'd like to hear about them as well.

You can send your articles and contact the editor, Lynne Baker, at lbaker@usw.org; phone: (o) 615-831-6782; (cell) 615-828-6169.