## **CONTRA COSTA TIMES**

## Can U.S. Chemical Safety Board make refineries safer?

By Denis Cuff

Posted: 08/31/2012 05:31:36 PM PDT Updated: 08/31/2012 05:31:41 PM PDT



Firefighters douse a flame at the Chevron oil refinery in Richmond on... (Josh Edelson/Reuters file)

RICHMOND -- It's a tiny, little-known federal agency with a big mission of preventing oil refinery and chemical plant explosions, fires and toxic releases that can harm people and the environment and disrupt fuel supplies.

The federal Chemical Safety Board -- one of several investigators of the Aug. 6 fire at Chevron's oil refinery in Richmond -- can't fine anyone a cent or issue any new rules.

It can, however, demand industries tell the truth about what caused accidents so others can learn from the mistakes. While most of the other agencies investigating the fire have been relatively tight-lipped so far, the federal safety board has been vocal in sharing its initial findings with the media and public, calling the accident a "near disaster" that nearly killed more than a dozen workers.

But with no regulatory powers and a small staff and budget, the question remains whether the board has made refineries safer in the 14 years since it was funded -- and some 13 years after it conducted one of its first root cause investigations, at the Tosco refinery north of Concord in 1999 that killed four workers.

Many who watch the independent agency -- and those in it -- say it has helped improve refinery safety with its in-depth investigations.

But they also contend the board with 50 employees and an \$11.1 million annual budget has much more to do to reduce the sporadic leaks, blasts and fires from the 150 refineries that make the fuel powering America's cars, trucks, buses and planes.

Some labor and environmental leaders go further, saying the nation needs a new federal regulatory agency focused on refineries, which currently are regulated by myriad federal, state and local agencies that also must cover many other types of industries.

"The board has done a good job of promoting safer practices with a very minuscule budget," said Kim Nibarger, a safety specialist with the United Steelworkers of America, a union representing refinery workers. "But sometimes I don't think the industry is listening to them. The industry has improved, but we still have way too many fires."

The Chevron fire -- which sent more than 15,000 people to hospitals complaining of illness -- was among more than 45 reported at U.S. refineries this year, Nibarger said.

## Lack of money

Rep. George Miller, D-Martinez, who helped spearhead the effort to fund the federal safety board, agrees that while the agency has shined a spotlight on flaws in safety practices at industries, it and other safety agencies have been hampered by a lack of adequate money and resources.

"Industry doesn't want these boards," he said. "Industries can't attack the Chemical Safety Board head-on because the board does a very credible, well-researched job, so they try to starve the agency by going after its budget."

As the presidential election heats up the debate over business regulation, Miller said he believes industry and congressional opposition would likely scuttle any effort to create a new agency to regulate oil and chemical plants.

In its 14 years, the board has deployed to 100 major fires or accidents -- including the 2011 Deepwater Horizon explosion in the Gulf of Mexico and 2005 Texas refinery explosion that killed 15 workers -- and issued 70 reports, safety bulletins and videos.

It is modeled after the National Transportation Safety Board, an independent agency that investigates airplane, ship and train crashes and makes safety recommendations but has no power to penalize.

"The Chemical Safety Board has made a difference," said Denny Larson, executive director of El Cerrito-based Global Community Monitor. "But we need a regulatory agency with teeth that can focus on refineries so we don't have incidents like the Chevron fire that put communities at risk."

Rafael Moure-Eraso, chairman of the five-person board appointed by the president, said he has no stand on the call for a new refinery regulatory agency.

Moure-Eraso said he thinks his fact-finding agency has helped steer the oil refining industry to learn from its mistakes, even though he agrees the industry is not as safe as it should be.

"We feel there are too many incidents," said Moure-Eraso, who before his appointment was a work environment professor at the School of Health and Environment at the University of Massachusetts. "There is definitely more work to be done."

In particular, he said, industry needs more work on developing refinery performance standards called leading indicators to prevent accidents.

Even in Contra Costa County, which has a widely touted industrial safety ordinance to inspect and audit refineries, county officials said they welcome the outside look at how both regulators and industry performed.

"We should be willing to hear if the board makes a recommendation that we can improve," said Contra Costa Supervisor John Gioia, of Richmond

Moure-Eraso said the American Petroleum Institute, an oil trade association that does lobbying and adopts refinery-operating guidelines, has made progress by developing performance standards. But they need more work and review, he added. The standards have been criticized by the United Steelworkers.

Oil refineries in the United Kingdom have a better record of avoiding fires than U.S. ones, he said. An effort is under way to determine why.

## **Priority of safety**

U.S. oil refiners say safety is a top priority in their highly regulated industry. At least four agencies with regulatory powers, including the state Division of Occupational Safety and Health (Cal/OSHA) and federal Environmental Protection Agency, are investigating the Chevron fire.

Refiners say their safety record has improved overall, despite occasional setbacks.

They cite federal figures showing that the rate of injury and illness among petroleum refining workers is dropping, and it's four times lower than manufacturing as a whole.

"We have a 40 percent decrease in injuries since 2003. That's meaningful progress," said Cindy Schild, the American Petroleum Institute's manager of refinery programs. "We continue to raise the bar."

The federal safety board, however, has cautioned against relying too heavily on injury reports as a safety yardstick because they can mask a series of near misses, small fires or a flawed safety culture that can lead to catastrophes -- like the fatal 2005 fire at a BP refinery in Texas City, Texas.

On the day of the fire, the BP plant was about to celebrate an award for its low injury rate.

In the case of the Chevron refinery, federal safety board members decided to investigate the Aug. 6 fire because so many residents visited hospitals after the fire, and because at least 20 refinery workers had a near miss.

Safety board accident reports can take a year or two to complete -- a length oil refiners say is too slow.

In Richmond, federal board investigators will interview refinery employees separately from other agencies to preserve the agency's independence. The board won't penalize anyone for their statements, and their testimony to the board cannot be used as evidence in lawsuits over the fire.

"We believe the witnesses will be forthcoming with us," said Daniel Horowitz, the agency's managing director. "We are there to get at the truth."

Staff writer Robert Rogers contributed to this report. Contact Denis Cuff at 925-943-8267. Follow him at Twitter.com/deniscuff.

- The federal Chemical Safety Board is an independent agency that investigates oil and chemical plant accidents and issues safety findings but has no power to punish. It has 50 employees and an \$11 million budget.
- The state Division of Occupational Safety and Health (Cal/OSHA) enforces worker safety laws for all employers. It has some 200 workers in its enforcement section. Eight inspectors in the process safety section focus on oil, chemical and related plants.
- The Contra Costa County Hazardous Materials program assigns five employees and a supervisor to inspect and audit refineries and chemical plants. This branch of the county health department carries out a county industrial safety ordinance and other state and federal laws.
- The Bay Area Air Quality Management District is a nine-county agency that enforces air pollution rules and laws and issues permits to build or modify industrial plants. The \$60 million-a-year agency assigns one inspector routinely to each of the five Bay Area refineries, and can deploy additional inspectors for accidents and investigations. It can issue fines and orders.
- The Federal Environmental Protection Agency has an \$8.4 billion budget and some 17,300 workers to enforce a wide variety of laws to protect the public, air, land and water. It can fine agencies and issue orders.