

Senate Committee on Labor and Industrial Relations
Senator Ben Hueso, Chair

Date of Hearing: March 26, 2014
Consultant: Alma Perez-Schwab

2013-2014 Regular Session
Fiscal: Yes
Urgency: No

Bill No: SB 1300
Author: Hancock
As Introduced/Amended: February 21, 2014

SUBJECT

Refineries: turnarounds

KEY ISSUES

Should the Legislature require the Department of Industrial Relations to recoup from the owner of a refinery, the full costs of extraordinary expenditures resulting from the division's response to an emergency hazardous material release or similar occurrence?

Should oil refineries be required to annually report their schedule for "turnarounds" to the Division of Occupational Safety and Health and provide documentation on refinery safety and infrastructure?

Should the Legislature prohibit certain information on refinery safety and infrastructure that is submitted to the State as a "trade secret" from being released to the public?

ANALYSIS

Existing law established the California Division of Occupational Safety and Health (Cal/OSHA), within the Department of Industrial Relations (DIR), to protect workers from health and safety hazards on the job through research and standards, enforcement and consultation programs. Among other things, Cal/OSHA promotes worker safety through implementation of training and process safety management in refineries and other facilities, as specified.

Existing law, under the California Refinery and Chemical Plant Worker Safety Act of 1990:

- 1) Declares that the potential consequences of explosions, fires, and releases of dangerous chemicals may be catastrophic; thus immediate and comprehensive government action must be taken to ensure that workers in petroleum refineries, chemical plants, and other related facilities are thoroughly trained and that adequate process safety management practices are implemented.

- 1) Defines “process safety management” as the application of management programs, as specified, when dealing with the risks associated with handling or working near hazardous chemicals and is intended to prevent or minimize the consequences of catastrophic releases of acutely hazardous, flammable, or explosive chemicals.
- 2) Among other things, “Process Safety Management Standards” require:
(Labor Code §7850 – 7870)
 - a. The Occupational Safety and Health Standards Board to adopt process safety management standards for refineries, chemical plants, and other manufacturing facilities.
 - b. An employer to develop and maintain a compilation of written safety information to enable the employer and employees operating the machinery to identify and understand the hazards posed by processes involving acutely hazardous and flammable material. A copy of this information is to be accessible to all workers.
 - c. An employer to perform a hazard analysis for identifying, evaluation, and controlling hazards involved in the process.
 - d. An employer to develop, implement, and update periodically written operating procedures that provide clear instructions for safely conducting activities involved in each process consistent with the process safety information.
 - e. Each employee whose primary duties includes the operating or maintenance of a process to be trained in an overview of the process with an emphasis on the specific safety and health hazards, procedures, and safe practices applicable to the employee’s job tasks as well as refresher and supplemental training documented by the employer’s certification record.
 - f. An employer to inform contractors performing work on, or near, a process of the known potential fire, explosion, or toxic release hazards related to the contractor’s work; and requires that contractors have trained their employees to a level adequate to safely perform their job.

Existing law requires the Division of Occupational Safety and Health to annually fix and collect reasonable fees for consultation, inspection, adoption of standards, and other duties conducted pursuant to the act. The fees shall be sufficient to cover, at a minimum, the annual cost of 15 staff positions. All revenue collected is to be deposited into the Occupational Safety and Health Fund and subject to appropriation by the Legislature in the annual Budget Act.

This Bill would 1) expand on the requirements for fees collected from refineries, 2) define what a “turnaround” at refineries is and would establish specific requirements of refineries in notifying the state of any planned turnarounds, and 3) would prohibit certain information submitted to the state as a trade secret from being released to the public.

With regards to the fees collected from owners for refinery safety, this bill would:

- 1) Authorize the Department of Industrial Relations (instead of the division within the department) to fix and collect reasonable fees to cover all necessary expenses, including

administrative and indirect costs, for the *existing* consultation, inspection, adoption of standards and other duties required under the Refinery and Chemical Plant Safety Act.

- 2) Additionally, authorize the fees to be used to fund participation in interagency efforts to improve safety in refineries and chemical plants.
- 3) Delete the requirement in law that the fees must be sufficient to cover 15 staff positions.
- 4) Require the director of DIR to adopt rules and regulations governing the criteria and procedures to fix and collect the fees, including emergency regulations as necessary.
- 5) Require the director of DIR to recoup from the owner of a refinery (by adding the amount expended to next year's assessment), the full costs of extraordinary expenditures resulting from the division's response to a hazardous material release or similar occurrence. The director shall document expenses for which reimbursement is sought.
- 6) Authorize the department to credit against the owner's subsequent year's assessment, any unexpended funds or hold them in reserve as a contingency fund for expenditures required by an emergency response to a hazardous material release or other situation.

With regards to "turnarounds," this bill would:

- 1) Define "turnaround" as a planned, periodic shutdown, total or partial, of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment.
- 2) Specify that "turnaround" does not include unplanned shutdowns that occur due to emergencies or other unexpected maintenance matters in a process unit or plant, or routine maintenance, as specified.
- 3) Require a refinery employer to submit to the division a full schedule of planned "turnarounds" for the various units on September 15 of each year.
- 4) At the request of the division, require a refinery employer to provide on-site access and specified documentation relating to a planned turnaround at least 60 days prior to the shutdown of a process unit or plant, including:
 - a. Corrosion reports and risk-based inspection reports;
 - b. Process Hazard Analyses;
 - c. Boiler permit schedules;
 - d. Management of change records related to repairs, design modifications and process changes;
 - e. Work orders scheduled to be completed in the planned turnaround; and
 - f. Temporary repairs since the last turnaround.
- 5) Require the refinery employer to submit notification of any changes and supporting documents at least 30 days prior to a planned turnaround.

- 6) Authorize the division, by agreement with a refinery employer, to modify the reporting period as to any individual item of information.
- 7) Require the division to develop an electronic information management system to facilitate monitoring of petroleum refineries.

With regard to information contained within documentation of a “turnaround,” this bill would:

- 1) Authorize a person providing information regarding a “turnaround,” to identify all or a portion of the information submitted to the division as a trade secret.
- 2) Prohibit any information that is submitted to the division as a trade secret from being released to the public. However, the fact that the information is claimed to be a trade secret is public information.
- 3) Establish procedures for notifying a refinery of any requests for the release of information claimed to be a trade secret, subsequent requirements of the refinery, and final determination by the division on whether or not the information will be released.
- 4) Establish legal proceedings for the person seeking the release of information or the person requesting that the information remain a trade secret.

COMMENTS

1. Overview on Refinery Turnarounds:

According to the American Petroleum Institute (API), a refinery turnaround is a planned, periodic shut down (total or partial) of a refinery process unit or plant to perform maintenance, overhaul and repair operations and to inspect, test and replace process materials and equipment. Turnarounds are scheduled at least 1-2 years in advance and depending on the process unit and the amount of maintenance needed, the length of the turnaround can vary from 1 to 4 weeks or more. API also stated that the less often units are started up and taken down, the safer it is since refinery incidents are more likely to occur during turnarounds.

2. Background on August 2012 explosion at Chevron Richmond Oil Refinery:

According to an Interim Investigation Report from the U.S. Chemical Safety and Hazard Investigation Board on the Chevron Richmond Refinery Fire:

On August 6, 2012, the Chevron U.S.A. Inc. Refinery in Richmond, California experienced a catastrophic pipe failure in the #4 Crude Unit. The pipe ruptured, releasing flammable, hydrocarbon process fluid that partially vaporized into a large vapor cloud that engulfed nineteen Chevron employees. All of the employees escaped, narrowly avoiding serious injury. The ignition and subsequent continued burning of the

hydrocarbon process fluid resulted in a large plume of unknown and unquantified particulates and vapor traveling across the Richmond, California, area. In the weeks following the incident, approximately 15,000 people from the surrounding area sought medical treatment due to the release.

Multiple agencies opened investigations in response to the incident including the Division of Occupational Safety and Health (Cal/OSHA), the U.S. Chemical Safety and Hazard Investigation Board (CSB), and the U.S. Environmental Protection Agency (U.S. EPA). Additionally, Chevron also completed its own internal investigation. ***All investigations identified serious concerns about process safety management procedures at the refinery and expressed the need for stronger preventative safeguards.***

On January 30, 2013, the Division of Occupational Safety and Health ***issued 25 citations against Chevron USA, with proposed penalties totaling nearly \$1 million (\$963,200 exactly), for state safety standard violations related to the refinery explosion.*** The citations included eleven “willful serious” and twelve “serious” violations, resulting in the highest penalties in Cal/OSHA’s history. Among Cal/OSHA’s finding, they reported that:

³⁵₁₇ Chevron did not follow the recommendations of its own inspectors and metallurgical scientists to replace the corroded pipe that ultimately ruptured and caused the fire. Those recommendations dated back to 2002.

³⁵₁₇ Chevron did not follow its own emergency shutdown procedures when the leak was identified, and did not protect employees.

3. Improving Public and Worker Safety at Oil Refineries: Report of the Interagency Working Group on Refinery Safety

Following the August 2012 explosion at Chevron’s Richmond Oil Refinery, Governor Brown convened a 13-agency Working Group to explore ways of improving public and worker safety at and around oil refineries through enhanced oversight, and to strengthen emergency preparedness. Over an 18-month period, the group met internally and with industry, labor, community, environmental, academic, local emergency response and other stakeholders.

The report details recommendations to improve emergency response and preparedness. Specifically, the report made the following recommendations:

³⁵₁₇ Coordinating regulatory activities to avoid duplication and increase effectiveness;

³⁵₁₇ Establishing clear criteria for unified response during emergencies and aligning radio communications between industry firefighters and local first responders;

³⁵₁₇ Improving information and data flows from refineries to the public and state and local agencies;

³⁵₁₇ Requiring refineries to implement inherently safer systems to prevent emergencies and better protect workers and neighboring communities;

³⁵₁₇ Strengthening enforcement capacity to ensure adequate oversight of refineries;

- ³⁵₁₇ Assessing operational safety and organizational structures at refineries to reduce human factors such as lack of training, insufficient experience or fatigue that can cause hazards;
- ³⁵₁₇ Providing greater community access to air quality monitoring information in and around refineries.

An Interagency Refinery Task Force was established in August 2013 to continue overseeing progress on the recommendations, and will meet bimonthly to ensure proper implementation.

4. Need for this bill?

The devastating explosion that occurred at the Chevron Richmond Refinery has sparked much discussion and debate on current safety standards, their effectiveness, or lack thereof, and need for improvement. After several investigations and the highest ever penalties issued in Cal/OSHA's history, it has become clear that more needs to be done. Among Cal/OSHA's findings with regards to the Chevron Refinery explosion, were violations in Chevron's implementation of its own "process safety management" procedures required of all refineries.

Under current law, "process safety management" procedure regulations require refineries to implement a comprehensive safety plan that includes a precise determination of what hazards exist and procedures to eliminate or reduce them. Employers must ensure that machinery and equipment are in good condition, that work procedures are safe, that hazards are controlled, and that workers are trained to safely operate the equipment, recognize hazards and respond appropriately in emergency situations. Chevron's Richmond Refinery failed to meet these requirements which resulted in the catastrophic explosion which put many lives in danger and left the refinery with an almost \$1 million fine.

This bill is necessary to establish specific requirements of refineries in notifying the department of any planned "turnarounds" as well as provide documentation regarding the refinery safety and infrastructure to allow for a more thorough review.

5. Proponent Arguments:

According to the author, oil refineries have no obligation under state law to report their "turnaround" schedule to any part of state or local government. Nor are they required to disclose important information, such as repair schedules or corrosion reports. The author argues that given the importance of "turnarounds," both to the refinery itself as well as the public safety risk they pose, allowing the Division of Occupational Safety and Health to know this information may allow it to conduct targeted inspections of refinery facilities. This bill would require petroleum refineries to annually report their schedule for "turnarounds" to the division and would require them to also submit documentation on refinery safety and infrastructure.

Proponents argue that in the case of Chevron, had Cal/OSHA known that Chevron had not inspected the section of piping that caused the explosion, it is possible that Cal/OSHA could have done their own inspection. Doing so, they argue, could have prevented an incident that threatened public health, affected the environment, and imposed severe financial costs.

6. Opponent Arguments:

None received.

7. Staff Comment:

On page 5, line 24-25 of the bill would require the division (Cal/OSHA) to develop an electronic information management system to facilitate monitoring of petroleum refineries; however, the bill provides no further indication as to what or how this system would work, which user it is targeting – the refineries, the public or the department? *The author may wish to amend the bill to provide further clarification on this provision.*

8. Double Referral:

This bill has been double referred and, if approved by this committee, it will be sent to the Senate Judiciary Committee for a hearing.

9. Prior Legislation:

SB 438 (Hancock) of 2013: Held in Assembly Appropriations Committee
SB 438 from last year is very similar to the provisions found in this bill, however, this year the author has chosen to also address costs associated with the State's response to a hazardous occurrence and allows certain information to be protected from public disclosure.

SB 71(Budget and Fiscal Review Committee) of 2013: Chaptered
SB 71 included changes to Labor Code which directed the Department of Industrial Relations to use its statutory authority to approve a fee by March 31, 2014, to support an increase in funding and at least 15 new positions for the Process Safety Unit, which inspects oil refineries and chemical plants.

AB 3672(Elder) of 1990: Chaptered
AB 3672 established the California Refinery and Chemical Plant Worker Safety Act of 1990 including process safety management standards to prevent or minimize the consequences of catastrophic releases of toxic, flammable or explosive chemicals.

SUPPORT

Asian Pacific Environmental Network (APEN)

OPPOSITION

None received