



Richmond Confidential

By Sukey Lewis

The U.S. Chemical Safety Board on Tuesday voted to postpone a decision on its staff's recommendation that California adopt a new regulatory framework for refineries.

In his motion to postpone the vote, board member Mark Griffon asked that staff “address the questions raised about the effectiveness of the safety case model,” and return to the board with their assessment within 120 days.

During the public meeting in Richmond City Council chambers, the CSB, a federal agency tasked with investigating chemical accidents, presented the second of three reports detailing its findings and recommendations concerning the Chevron Refinery Fire on Aug. 6, 2012.

CSB staff found that current U.S. and California process safety management fails to ensure safety at oil refineries. Their recommendation: an entirely new approach—the safety case regime.

While the safety case regime has been applied in Norway, the U.K. and Australia, its use in the U.S. has been confined to the Nuclear Regulatory Commission and NASA. In its report, the CSB said that tweaking the old regulations is not enough.

“The safety case regime requires continuous risk reduction and is a more effective approach to prevent major incidents in petroleum refineries,” said CSB staff member Amanda Johnson. The regime requires companies to make a “verifiable case” to regulators that they are identifying and controlling hazards, adopting best practices and that their safety strategy is satisfactory.

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But board members Beth Rosenberg and Griffon expressed reservations about the regime early in the meeting. Their concerns echoed comments from elected officials and industry and scientific community, which critiqued the safety case regime in written and public comments.

Rosenberg acknowledged the community's frustration. "What we have now is not working, and you deserve something better," Rosenberg said. "I don't think we have had time to investigate the downsides of the safety case."

The recommendations received support from the Richmond city councilmembers in attendance, with Mayor Gayle McLaughlin and Vice-Mayor Jovanka Beckles explicitly calling for the adoption of the safety case regime.

"This is right for our community. We will move ahead anyway regardless [of the board's decision]," McLaughlin said.

Contra Costa Supervisor John Gioia and Congressman George Miller (D-Martinez) both sent letters to the meeting urging the board to strengthen the county's current Industrial Safety Ordinance — already considered one of the most rigorous in country.

Specifically, Gioia and Miller said Contra Costa Health Services needs direct enforcement authority, more resources to conduct inspections and power to require refineries to adopt best practices.

Miller called for reform of the California Labor Code so California's Occupational Safety and Health Administration can force refineries that violate safety standards to correct violations in a timely manner. Miller cited clamps used on corroded pipes at the Chevron refinery; they were ordered to be replaced by March of last year, yet are still in use, Miller said.

More than 150 people turned out for the meeting, many holding signs reading, "Big Oil, Toxic Crude" and "Protect Community Safety Not Corporate Profits".

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During the public speaking portion of the evening, residents told personal stories of loved ones with asthma and cancer, which they tied to the refinery's lack of regulation.

Representatives from the Western States Petroleum Association and the American Petroleum Institute said the current regulatory framework works, and can be improved. Closely mirroring comments submitted by Chevron on the report, they said that the adoption of the safety case regime would add "complexity and uncertainty" leading to less safe working conditions.

Another speaker who questioned the safety case regime, former CSB chair and CEO John Bresland, criticized the science behind the recommendation. He quoted from a letter to the board by Dr. Nancy Leveson, an MIT professor who helped investigate the Deepwater Horizon oil spill in 2010, "There is insufficient objective evidence that the safety case is superior."

Bresland said CSB staff do not fully appreciate the resources needed to transition to the safety case regime.

Ultimately, the board's vote was two to one to not accept the current report. Chairperson Rafael Moure-Eraso moved to accept the recommendations in full. His motion was preempted by Mark Griffon's motion to postpone the vote. Griffon called for more research by staff. He asked staff to address the issues brought up by Miller and Gioia, and to more thoroughly investigate the downsides of the safety case regime.

"The goal is to make the report stronger in short order," Rosenberg said.

Moure-Eraso was visibly upset by the decision, "I don't want to hear it okay?" He said to Rosenberg as the meeting adjourned.

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