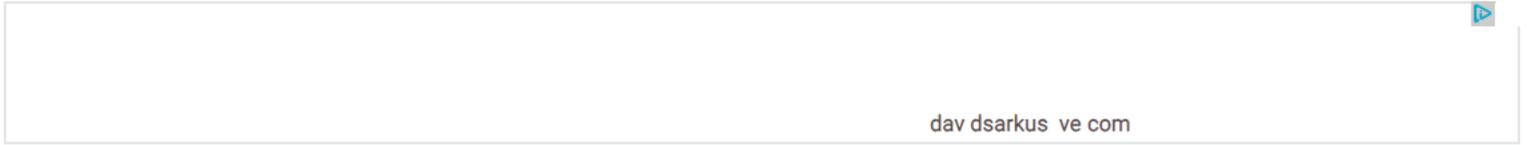


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# The PUMP HANDLE

A WATER COOLER FOR THE PUBLIC HEALTH CROWD



## [Labor-Enviro-Community coalition wins stronger California oil refinery regulations and showcases a winning strategy for worker and community health](#)



Posted by [garrettbrown](#) on March 3, 2017

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by Garrett Brown

On February 10<sup>th</sup>, California's Department of Industrial Relations (DIR) proposed revised and stronger regulations for oil refineries in the state after a 4½-year joint campaign by labor unions, environmental and community organizations to protect both refinery workers and nearby communities. The regulatory proposal now goes to the state's Occupational Safety and Health Standards Board for consideration and final approval.

This successful "blue-green" coalition held off industry pressure and reversed earlier back-door revisions to the proposal by DIR to benefit the oil corporations, which are major campaign contributors to Governor Jerry Brown. The winning strategy of uniting workers, environmentalists and community members is a powerful example of how health and safety regulations can be improved despite an industry's wealth, power and political influence.

The key components to securing the proposed regs have been constant coalition-building with all affected parties, carefully following the standard-

setting process, meticulously reviewing each new draft of proposed regs, mobilizing for public meetings, and an active campaign to get media coverage of the worker and community health issues.

The story starts with the [August 2012 fire](#) at Chevron's Richmond, California, refinery which enveloped 19 workers in a flammable vapor cloud which they escaped literally only seconds before it ignited and caused major damage to the refinery. The resulting fire caused 15,000 Richmond residents to go to local hospitals with respiratory complaints and other ailments.

Refinery incidents causing adverse health effects have occurred regularly in the United States, including California, Texas and Washington state, with the U.S. Chemical Safety Board [reporting](#) that there were 125 major process safety management (PSM) incidents in 2012 alone, and that 23 million people live within one mile of refineries, chemical plants and other hazardous facilities.

The adverse environmental and health impacts of refineries have been the subject of [major investigative articles](#) and the California state government estimates that incidents since 1995 have cost the state economy \$13 billion in direct and indirect losses.

The oil industry is a very wealthy economic sector and uses its resources to buy political influence in California ([here](#) and [here](#)) and elsewhere. Big Oil is also a case study of how an industry can "capture" the regulatory agencies which are supposed to oversee its operations (e.g., see [here](#) and [here](#).)

One might think that "green" California, with a Democratic Party Governor who [has described](#) the fossil fuel industry as selling a "highly destructive" product, would be different. But actually Governor Brown has a deeply schizophrenic attitude toward Big Oil – denouncing it on one hand, and protecting it and taking millions in campaign contributions on the other hand:

- In 2011, Brown fired two regulators for the state Department of Conservation and the Division of Oil, Gas & Geothermal Resources for not issuing fracking permits fast enough ([here](#) and [here](#));
- In 2012, [Brown suspended](#) the California Coastal Act, which covers coastal environments in the event of oil spills, to reduce costs for a pipeline company that polluted beaches in a spill near Santa Barbara;
- In 2013, Brown received millions of dollars in oil industry donations to support passage of his favored ballot propositions ([here](#) and [here](#)); and
- In 2015, the Brown-appointed head of the state Department of Conservation abruptly resigned following an outcry that oil companies had been allowed to inject toxic wastewater into the Central Valley drinking water aquifers ([here](#) and [here](#)) and the practice is [still occurring](#) in 2017.

Recognizing Big Oil's power and political support, occupational health and safety professionals sought to counter-balance these forces by joining others in a broad coalition in 2012 called the "[Refinery Action Collaborative](#)." The Collaborative included unions, environmental groups, Richmond community organizations, and the Labor Occupational Health Program (LOHP) at UC Berkeley. The organization was renamed the "Collaborative on Refinery Safety and Community Health" in 2013, and included the United Steel Workers (USW), Blue Green Alliance (BGA), LOHP, Communities for a Better Environment (working in the Latino and Black communities), and the Asian Pacific Environmental Network (working in the significant Lao community in Richmond).

The Collaborative has held regular meetings with member organizations and the Richmond community over the last four-plus years to solicit ideas and track progress of the safety effort. The Collaborative met with Governor Brown's [Interagency Working Group on Refinery Safety](#), which was charged with analyzing the 2012 Chevron fire and developing policy proposals to prevent a recurrence. The Collaborative met with the U.S. Chemical Safety Board (CSB), which issued [three separate reports](#) on the Chevron fire. Labor members of the Collaborative also participated in a "Labor Management Advisory Committee" that DIR established as part of the PSM standard-setting process.

After this series of meetings and consultations, DIR released a draft PSM standard in September 2015, and in March 2016 the RAND Corporation [released a report](#) indicating that the proposed regulation to be "economically justified." The research think-tank estimated the proposed regulation would cost the industry \$58 million to implement, or only \$0.004 per gallon of gasoline produced in California.

Then the funny business began. DIR went silent for nine months. It became apparent that the agency was conducting closed-door talks with the oil industry's Western States Petroleum Association (WSPA).

In July 2016, DIR quietly released a new draft of the proposed PSM standard that contained significant changes. No explanation of the changes was provided and neither did DIR provide a complete list of them. A Collaborative member organization ran the old and new versions through a computer program to compare the text. Brightly colored "track changes" lit up the screen of the July 2016 version.

The Collaborative's members then sprang into action. Led by the [Blue-Green Alliance](#) (itself a coalition of 10 major unions and environmental groups), the California Federation of Labor, and the USW, the Collaborative sent a [letter](#) and [charts](#) to DIR detailing the changes in the July 2016 text, and outlining 40 recommendations for reinstating the September 2015 language and strengthening it on several issues.

Prior to a September 15, 2016, meeting of the California Occupational Safety and Health Standards Board to hear testimony on the proposed PSM reg, BGA-member Sierra Club spearheaded an outreach effort that resulted in 2,000 emails being sent to the Standards Board. The Collaborative also mobilized its membership to attend and speak at the Standards Board meeting.

Big Oil also mobilized. Stung by the RAND report on economic feasibility, the WSPA released its own study of the RAND study. Unsurprisingly, it concluded that the think tank wildly underestimated the industry's compliance costs. WSPA published their report immediately before the Standards Board's meeting in September 2016.

Maintaining its momentum, the Collaborative conducted a series of direct interactions with DIR leaders. In October 2016, they held a conference call with DIR Director Christine Baker and her senior staff to go over the PSM draft texts. In November, the coalition sent DIR [a detailed letter](#) with 13 examples of how the changes would allow for refinery practices that led to the 2012 Chevron fire and a [2015 explosion](#) and fire at ExxonMobil in

Torrance, California. (In February 2017, the Torrance refinery [had yet another fire](#).)

The Collaborative also launched a media offensive. It was designed to explain the worker and community health issues, maintain pressure on DIR, and counteract the lobbying by WSPA and the American Petroleum Institute (API). An [op-ed article](#) appeared in the *San Francisco Chronicle*, and sympathetic articles ran here on *The Pump Handle*, media outlets of journalist Bill Moyers, local newspapers in Richmond, CA, and even in the trade publication *Cal/OSHA Reporter*.

The coalition of groups continued to grow during this period involving more labor and environmental justice organizations. The State Building and Construction Trades Council – which had often been at loggerheads with the USW over jurisdictional issues related to refinery workers and building trades members doing repairs on site for contractors – joined the effort and brought its considerable political influence to bear.

In the wake of these actions, DIR agreed to make 20 changes to the regulatory text before formally submitting it to the Standards Board.

The Collaborative, with a growing masthead of organizational logos, [sent a final letter](#) to DIR on December 20, 2016, supporting the text that was last discussed with DIR. The Collaborative made clear, however, that DIR would again face active opposition if the agency repeated its move to weaken the text before it was formally submitted. The [final proposal](#) submitted on February 10<sup>th</sup> now rests with the Standards Board for consideration and final approval.

According to Michael Wilson, national director for occupational and environmental health for the BGA the final proposal is a “clear, enforceable document with a strong worker participation element.” Wilson has been involved in leading the labor-environmental-community coalition since the 2012 Chevron fire.

The proposal provides workers with “stop work authority” and the right to refuse “unsafe work.” It also requires the use of “inherent safe technology” by the refineries to eliminate safety and health hazards in both normal and non-routine operations.

Wilson reports that 65% of the changes proposed by the Collaborative to strengthen the PSM standard were ultimately included in the draft submitted by DIR, while 75% of the changes proposed by the WSPA were left out. The WSPA wanted to eliminate timelines for hazard correction, eliminate the hierarchy of controls, replace “shall” with “should” in the regulatory text, and gut worker participation.

The PSM standard is not yet approved – it can be modified and must be voted on by the Standards Board – so there is the possibility of monkey business at the Board level. In addition, the WSPA or the American Petroleum Institute could file a lawsuit to challenge the Board-approved regulation, and state regulations of this type could also be potentially threatened by Republicans in Congress. Use of the Congressional Review Act against recent updates of the U.S. EPA’s Risk Management Program would permanently eliminate those requirements on a federal level, and undercut similar state-level ARP and PSM rules.

There is still more work to do in California to address refinery safety. Regulations under consideration by California’s Environmental Protection Agency for its Accident Release Prevention (ARP) program are weaker than the proposed PSM standard. Weak revisions of the ARP could be used to undermine Cal/OSHA’s enforcement of the PSM regulation.

On the other hand, California’s rule could be a model for other government agencies. BGA’s Wilson notes that could be the case in Washington State, which is considering revisions to its PSM standard, and even for refinery operations in the developing world, such as in Mexico.

The saga of the efforts in California to strengthen refinery safety to protect refinery workers, surrounding communities and the environment is an example of the power of coalitions between allies, of “doing your homework” in analyzing regulatory proposals, and of publicity, political hardball, and building community support. It stands out as a success against a very powerful industry with sympathetic politicians and their appointed agency heads ever eager to please. It is an example that could be followed to protect against health and safety hazards elsewhere in the United States.

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