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ANSWERING ANACORTES:

Washington's Proposed New Refinery Safety Regulation

On Friday morning, April 2, 2010, seven workers at the Tesoro, Anacortes refinery were working on the heat exchangers in the Naphtha Hydrotreater Unit when one exchanger catastrophically failed. The ensuing explosion and fire ultimately claimed the lives of all seven people. More than 800 people attended a community memorial at Anacortes High School for the seven workers.¹

The Anacortes explosion remains the worst industrial disaster since the Department of Labor and Industries (L&I) began enforcing the Washington Industrial Safety and Health Act (WISHA) in 1973, but it certainly wasn't the first. On November 25, 1998, an explosion and fire in the coking unit at the Equilon Puget Sound Refinery in Anacortes killed six workers.² Other were killed in 2007 at Cherry Point; 2002 at Tesoro; and 1996 at Texaco.³

A Preventable Tragedy

Tests conducted by L&I revealed that cracks had developed over the years in many of the welds of Tesoro's ruptured heat exchanger. On October 4, 2010, after a six-month investigation, L&I reported that the explosion had been entirely preventable. L&I cited Tesoro for 39 willful violations and five serious violations, and issued a fine of \$2.38 million, the largest in the department's history.⁴

L&I found that Tesoro had continued to operate failing equipment for years; postponed maintenance; inadequately tested equipment for potentially catastrophic damage; failed to protect workers from risk of injury and death; and disregarded a multitude of workplace safety regulations.⁵

L&I director Judy Schurke summed up her department's report with the statement, "This explosion and the deaths of these men and women

would never have occurred had Tesoro tested their equipment in a manner consistent with standard industry practices, their own policies and state regulations."⁶

Governor Christine Gregoire said, "The loss of seven lives is a tragedy, not just for the loved ones, but for our entire state. What makes the loss of these lives all the more painful is that these deaths could have been prevented. I believe the actions L&I is announcing today and the record fine they have assessed against Tesoro sends a clear message that these tragedies are not acceptable."

To prevent a similar incident, the U.S. Chemical Safety and Hazard Investigation Board (CSB) called for substantial changes to Washington's Process Safety Management (PSM) regulations for refineries.

A Labor-Environment Coalition Emerges

Nearly 10 years later, under Governor Jay Inslee, Washington is finally taking action to change the rules. Operating under the banner of the BlueGreen Alliance, representatives of the United Steelworkers (USW), Evergreen Islands, Sierra Club, Washington Environmental Council, RE Sources for Sustainable Communities, Climate Solutions, the Washington State Labor Council and Washington Building and Construction Trades have worked for five years against unending industry resistance to support L&I in drafting a new refinery safety regulation: one that is practical, meaningful and legally enforceable.

A New Regulatory Framework

L&I's current draft rewrites Washington's 1992 PSM regulation and expands its scope. The draft follows the lead of California, which passed the nation's first major PSM revision in 2017, five years after a catastrophic pipe failure and explosion at the Chevron, Richmond

refinery nearly killed 19 workers and caused some 15,000 residents to seek medical attention.⁷ The CSB found that Chevron had ignored the recommendations of its own engineers to correct the problem of sulfidation corrosion in the unit. A RAND analysis concluded that California's new PSM regulation would be cost effective for the industry, and that it would save workers' lives and protect the state's economy.

Washington's existing (1992) PSM regulation leaves refineries largely free to determine their own safety priorities and investments, and it does not give refinery workers the right to participate in PSM decision-making. Among other improvements, the proposed revision will require:

- Modern engineering and management practices
- Strong worker participation rights
- Documentation of all safety decisions
- Procedures to learn from near-misses; and
- Clear timelines to implement corrective actions.

Industry Resistance

The proposed regulation tracks the industry's own best practices, as recommended by the Center for Chemical Process Safety of the American Institute of Chemical Engineers.

If adopted in Washington, it will lead to far better protections for refinery workers and surrounding communities, while also protecting Washington's ecosystems from chemical releases, and the state's economy from disruptions in its fuel supply. The requirements also protect the industry itself by driving down the risks of fires, explosions and chemical releases.

Despite these benefits, the Western State Petroleum Association (WSPA) has stepped-up its now four-year campaign to weaken it.

Time for Action

L&I will hold public hearings about the new PSM regulation this spring. The hearings will be well-attended by WSPA representatives. It is essential that Washingtonians attend the hearings and step forward in support of a strong regulation. L&I will post

the hearing dates.

Please let us know if you'll be attending a hearing or want to help by emailing: jkoski@bluegreenalliance.org. We'll provide you with an update on the regulation and the coalition's talking points.

L&I's proposed regulation represents a long-overdue answer by the State of Washington to the families who continue to suffer over the loss of their loved one, and who will live with that loss forever. The requirements present the possibility of a new way of doing business in the state's refineries, one that prioritizes safety and the lives of refinery workers, and that holds refinery managers accountable.

While these lengthy regulations might appear complicated, in the end, they are simply the most effective way to say, "*Never Again.*" It is time for Washington to act. Please join us.

Endnotes

1. History Link, "Explosion and fire at the Tesoro Refinery in Anacortes kills seven refinery workers on April 2, 2010." Available online: <https://www.historylink.org/File/9717>.
2. History Link, "Explosion and fire at the Equilon Puget Sound Refinery in Anacortes kill six refinery workers on November 25, 1998." Available online: <https://www.historylink.org/File/5618>.
3. Texas Tribune, "A Deadly Industry." March 22, 2015. <https://apps.texastribune.org/blood-lessons/data/>.
4. A willful violation is issued when there is evidence that an employer knowingly violated a safety rule and was indifferent to correcting it. A serious violation is issued when there is a substantial probability of serious injury or death from a workplace hazard.
5. U.S. Department of Labor, Occupational Safety & Health Administration, "Washington state fines Tesoro more than \$2 million after refinery explosion that killed seven workers." Available online: <https://www.osha.gov/quicktakes/10152010#3>. See also L&I Inspection #314251315. Available online: <http://www.lni.wa.gov/main/Docs/TesoroCitation-NoticeInspectionNo314251315.pdf>.
6. Occupational Safety and Health, "WISHA Issues Record Fine for Tesoro Explosion." Oct 8, 2010. Available online: <https://ohsonline.com/articles/2010/10/08/wisha-issues-record-fine-for-tesoro-explosion.aspx?admgarea=ht.Hazmat&m=1>.
7. U.S. Chemical Safety and Hazard Investigation Board, "Final Investigation Report: Chevron Richmond Refinery Pipe Rupture and Fire." Available online: <https://www.csb.gov/file.aspx?DocumentId=5917>.



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