

BP contests fines for gross safety violations that led to deaths of two Ohio refinery workers

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Are you an oil refinery worker at the former BP Husky facility or another refinery or petrochemical plant? Fill out the form at the end of this article to report conditions at your facility. All submissions will be kept anonymous.

BP Products North America is contesting the \$156,250 in fines it was assessed by the US Occupational Health and Safety Administration (OSHA) for the series of gross safety violations that led to the deaths of two young workers at an Ohio refinery facility last September. Max Morrissey, 34, and Ben Morrissey, 32, were killed in the entirely preventable explosion and fire at the BP Husky refinery in Oregon, Ohio, just outside of Toledo.

The fine OSHA announced in March for the deaths of the two young fathers was insulting enough. The \$156,250 the federal agency assessed BP for its criminal negligence amounts to an infinitesimal fraction of the \$28 billion BP made in profits last year and the \$8.2 billion first-quarter profits it announced Tuesday morning. As the *World Socialist Web Site* commented at the time, “For American capitalism, the life of a worker is very cheap.”

But OSHA records obtained by the *World Socialist Web Site* show that BP has no intention of even paying these derisory fines. On April 4, Gregg Dillard, an attorney from the Houston law firm Baker Botts (appropriately headquartered at One Shell Plaza) provided a Notice of Contest to OSHA, which stated that “BPPNA contests the Citation in its entirety, including all items, alleged violation descriptions, type/classification, proposed penalties and abatement, and abatement dates set forth therein.”

The *Toledo Blade*, which first reported the contested fines in a short article last month, attempted to reach BP and OSHA for comment but received no replies. The *World Socialist Web Site* also called safety officials for the union that the Morrissey brothers and another 315 workers at the refinery are members of. But requests for comments from Steve Sallman, the director of the United Steelworkers’ Department of Health, Safety and Environment, who was CC’d a copy of BP’s Notice of Contest, have gone unanswered.

According to an OSHA press release in mid-March, the two workers were attempting to correct “rising liquid levels in the fuel gas mix drum when a flammable vapor cloud formed, ignited and then triggered an explosion” on September 20, 2022, “causing the deadly burns.”

The US Chemical Safety Board, which is conducting its own

investigation, reported that Fuel Gas Mix Drum was installed around 2016 and combines various sources of flammable gases for use as fuel in refinery furnaces and boilers.

After a six-month investigation, OSHA cited BP for 10 “serious” and one “other-than-serious” violations. Among them were failure to control chemical levels at its Crude 1 processing unit, which “resulted in a release of liquid Naptha exposing employees to flammable vapor, fire, hydrogen sulfide, and explosion hazards.”

BP was also cited for failing to “develop and implement written operating procedures that provide clear instructions for emergency shutdown, including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.”

Most significantly, OSHA said the “employer failed to ensure that emergency shutdown of process equipment in the NHT/Sat Gas units occurred when requested by outside operators.” This confirms reports from refinery workers that management refused to listen to operators at the site who insisted that the processing unit be shut before the fatal explosion occurred.

The day after the explosion, OSHA issued a Hazard Letter to BP, later obtained by the WSWs, which cites the dangerous practice of “rotating process operators among multiple positions, instead of a single position.” The practice, OSHA said, “can reduce the level of expertise and knowledge on the unit for which they are initially qualified. In the event of a process upset condition or catastrophic incident, this decrease in expertise can negatively affect incident response efforts, posing a higher likelihood of exposure to toxic vapor/gas, fire and explosion hazards.”

The lack of adequate staffing, the exhausting hours operators are forced to work, contracting out and job rotation were some of the most central issues that motivated oil refinery and petrochemical workers to strike in 2015, according to striking BP Husky and other workers who spoke to the WSWs at the time. But the struggle was sold out by the USW bureaucracy, which also blocked a strike over many of the same issues, just seven months before the Morrissey brothers were killed.

“That list of citations is awful,” a Marathon refinery worker in Texas told the WSWs. “That incident could have been worse. OSHA is such a joke. All those violations, each of which could’ve gotten workers killed on its own, is deemed ‘serious.’” The

maximum fine OSHA can assess for that is \$15,625 which is what they did for 10 of them, adding up to the total \$156,250 fine. They can start assessing daily fines after the abatement date, which is why BP is contesting all of them, pushing the abatement date. They'll probably fight to get some of them reduced or combined. OSHA has no teeth. When the maximum penalty for a violation is \$15k vs tens or hundreds of times that to address the issue before it gets workers killed, of course these companies choose to let the job conditions remain unsafe.

“The significance of the demands coming from outside operators is that those workers are more exposed to the dangerous conditions but are also more knowledgeable of them. The inside operator is getting all their information from analyzers that report data through the computer system to his board or over the radio from the operators out working the unit. If anyone is aware of dangerous conditions or things being abnormal, it's the outside operators.”

The worker explained the obstacles workers face when they refuse to work under unsafe conditions, including from the USW's joint union-safety committee reps.

“In theory, any worker has the authority to stop a job that's unsafe. When that happens, someone comes and decides whether the situation is safe, the safety rep would be involved and so would a supervisor, then the workers would be told to do the job if it was deemed safe, according to whoever is considered qualified to make that decision. When it comes to shutting a unit down, that's much more complicated. It can take days to safely shut a unit down. At that plant, they're likely single train, meaning there's essentially one of each type of unit. The crude unit is where the feed comes in. Shutting that unit down would likely mean idling the entire plant.

“If an operator, or group of operators, felt the unit should be shut down for safety reasons, they could speak up and have the situation looked at. If the workers were told by supervision, with a union safety rep in agreement, that they had to keep the unit running, they would rightfully believe that not doing so would likely cost them their job. The safety rep job is a bid job, but management has the ability to handpick the candidate, rather than it just being seniority based. The person in that position would be well aware that causing problems for the company would most likely result in them being put ‘back on their tools’—losing that cushy position and going back to working on shift.

“The union safety reps we have are very busy, typically doing BS paperwork to help cover the company's butt. They also work straight days and aren't around on nights or weekends, when the dangerous stuff tends to happen. A common saying when it comes to maintenance and operations work is ‘when you can't do it right, do it at night.’ Shutdowns and startups are usually intentionally planned when less people (meaning the bosses) are on site in case something goes wrong. Those USW safety reps work the same hours as those people. The joint safety jobs were created to offer a cushy job to elected union leaders who will play ball with the company. If they do that for long enough, they may eventually be able to get themselves a full-time union job and not even go into the plants anymore.”

On March 23, the WSWs requested that OSHA release the information that led its inspectors to conclude that BP had ignored

the warnings of operators. “The fact that management ignored warnings from workers about the dangers they faced is of a great interest to the families of the deceased, their fellow workers and the public at large,” we wrote, requesting “inspection reports and the statements that confirm this fact from relevant workers, United Steelworkers and management officials, or any other participants or witnesses.”

After being instructed that such information could only be released through a Freedom of Information Act request, the WSWs filed a FOIA request with OSHA. On April 24, OSHA replied, “The inspection record you requested is in contest; therefore, the record is part of an open litigation and will not be available until this action is complete. What can be released has been enclosed, and the remainder of your request has been denied.” Karen Bernhoft on behalf of Marc Choi, Lead Accountant and Freedom of Information Act Disclosure Officer at OSHA, cited guidelines prohibiting the release of information that “could reasonably be expected to interfere with enforcement proceedings.”

As the WSWs warned from the beginning, any investigation left in the hands of OSHA officials and the United Steelworkers union would result in a whitewash of the company, the USW bureaucracy and the federal safety agencies themselves. But this cannot be accepted.

Refinery workers at the facility—sold by BP to Canadian-based Cenovus Energy in February 2023—and throughout the industry should form rank-and-file safety committees to organize their own investigation, in conjunction with safety experts dedicated to the well-being of workers, not corporate profit. This inspection must hold to account all those responsible for the tragic deaths of the Morrissey brothers and demand that BP provide the young workers' families with the financial resources needed for a secure future for their children.

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