

## U.S. Chemical Safety and Hazard Investigation Board

1750 Pennsylvania Avenue NW, Suite 910 | Washington, DC 20006  
Phone: (202) 261-7600 | Fax: (202) 261-7650  
www.csb.gov

Honorable Vanessa Allen Sutherland  
Chairperson and Member

Honorable Manny Ehrlich, Jr.  
Board Member

Honorable Rick Engler  
Board Member

Honorable Kristen M. Kulinowski  
Board Member



February 16, 2018

The Honorable Virginia Fox, Chair  
The Honorable Robert C. Scott, Ranking Member  
Committee on Education and Workforce  
United States House of Representatives  
2176 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chair Fox and Ranking Member Scott:

The U.S. Chemical Safety and Hazard Investigation Board (CSB) is an independent agency of the Federal government mandated by statute to conduct safety investigations of chemical incidents at fixed facilities. The CSB does not have regulatory authority over these facilities. Our mission is achieved through the issuance of investigation reports and recommendations.

On April 20, 2010, a blowout of the Macondo oil well approximately 50 miles off the coast of Louisiana in the Gulf of Mexico resulted in an explosion and uncontrolled release of oil and gas. The explosion caused the deaths of 11 individuals and seriously injured 17 others. As a result of our investigation, the CSB issued 16 separate safety recommendations to Federal agencies, facility owners/operators, industry organizations, and academia.

One recommendation was to the Department of the Interior (DOI) for the implementation of worker participation measures, authority to stop hazardous work, and, whistleblower protection, 2010-10-I-OS-R15 (R15). Part of R15 specifically requested DOI to issue regulations that create "Protections for workers participating in safety activities with a specific and effective process that workers can use to seek redress from retaliatory action with the goal to provide a workplace free from fear that encourages discussion and resolution of safety issues and concerns. Protected activities include, but are not limited to reporting unsafe working conditions, near misses, and situations where stop work authority is used."

As required by statute, the DOI, through its Bureau of Safety and Environmental Enforcement (BSEE), responded to the CSB recommendation. BSEE concluded that it did not have the statutory authority to implement the regulations contemplated in R15. At a public meeting of the CSB on November 14, 2017, the CSB voted to close R15 as "reconsidered/superseded."

During the CSB's public meeting, the four board members each expressed strong concerns that Federal law and regulations provide insufficient protection for oil and gas industry employees

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In light of the response from DOI/BSEE, we urge Congress to enact legislation to address this gap in worker safety. In addition to BSEE, the U.S. Department of Labor's Occupational Safety and Health Administration also maintains that they lack statutory authority to provide such redress.

The CSB is not the only Federal agency to identify this safety gap. In fact, at least two other Federal safety investigations called for the adoption of enhanced worker participation and/or essential whistleblower protection measures for oil and gas workers on the Outer Continental Shelf. These were the DOI's Outer Continental Shelf Oversight Board (2010) and the National Commission on the BP Deepwater Horizon Spill (2011). In addition, independent reports by the National Research Council (2012) and by the National Academies of Science, Engineering and Medicine (2016), called for similar protections.

We note that on July 30, 2010, the U.S House of Representatives recognized this lack of effective anti-retaliation protection for offshore workers, when it passed the Offshore Oil and Gas Worker Whistleblower Protection Act of 2010, by a vote of 315-93. Unfortunately, this bill did not progress in the U.S. Senate. On November 8, 2017, a similar bill, H.R. 4304, was introduced in the House of Representatives by Congressman DeSaulnier.

The CSB urges Congress to enact legislation to provide clear and unambiguous authority for a Federal agency to take appropriate actions to discourage adverse action against employees who take safety actions and to establish a means of redress for employees who suffer retaliation as a result.

Thank you for your leadership on this important safety issue for offshore workers. If you require additional information, please do not hesitate to contact Ms. Hillary Cohen, Director of Public and Government Affairs, at (202) 446-8094 or at [Hillary.Cohen@csb.gov](mailto:Hillary.Cohen@csb.gov).

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February 16, 2018

The Honorable Greg Walden, Chairman  
The Honorable Frank Pallone, Ranking Member  
Committee on Energy and Commerce  
United States House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

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February 16, 2018

The Honorable Lisa Murkowski, Chair  
The Honorable Maria Cantwell, Ranking Member  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chair Murkowski and Ranking Member Cantwell:

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February 16, 2018

The Honorable John Barrasso, Chairman  
The Honorable Thomas R. Carper, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
410 Dirksen Senate Office Building  
Washington, D.C. 20510-6175

Dear Chairman Barrasso and Ranking Member Carper:

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February 16, 2018

The Honorable Lamar Alexander, Chairman  
The Honorable Patty Murray, Ranking Member  
Committee on Health, Education, Labor and Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray

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February 16, 2018

The Honorable Rob Bishop, Chairman  
The Honorable Raul M. Grijalva, Ranking Member  
Committee on Natural Resources  
United States House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Walden and Ranking Member Grijalva:

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