

# OSHA National Emphasis Programs — Status and future

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As reported in a previous article (“The NEP may prove costly to process safety,” BIC magazine, August 2007), OSHA published a refinery National Emphasis Program (NEP) under compliance directive CPL 03-00-004 in June 2007, and began inspections. As of mid-April, a compilation of industry data showed seven NEP inspections complete with citations issued, two more complete and waiting on citations and 13 under way. It also showed two state NEP inspections.

According to the data, the average fine associated with the citations for the completed NEP inspections thus far is more than \$150,000 per refinery. Although not all of OSHA’s press releases on NEP inspections have disclosed the number of citations, it appears these are averaging about 20 per refinery. In comparison, Richard Fairfax, director of OSHA Enforcement Programs, told the “Houston Chronicle” (“OSHA uncovers slew of refinery violations,” March 9) that OSHA had found 146 violations after reviewing 17 refineries in a

dozen states, but it appears these violations are only from the completed inspections.

In any case, since OSHA has 81 refineries to inspect nationally and each inspection must be completed within six months after initialization (and OSHA has been using all or most of this time period), it is clear that OSHA will have to pick up the pace considerably in order to complete all these inspections by their self-imposed target date of June 2009. It is also worth noting that even though refineries in the OSHA VPP are nominally excluded from NEP inspections, OSHA is now requiring VPP members to perform annual self-assessments against a majority of the NEP static questions.

NEP inspection citations to date are somewhat difficult to summarize, particularly since not all of them have been specifically reported in OSHA’s press releases. However, Mark Briggs, director of OSHA’s South Houston office, recently said at the Global Congress on Process Safety that the most cited process safety management (PSM) elements thus far — based on a total of 129 citations — are mechanical integrity (19 percent), process

hazards analysis (18 percent), operating procedures (16 percent) and process safety information (15 percent).

Looking at the publicly reported NEP citations — in terms of the “static” NEP section questions with which they correspond and their content — we observe that:

> There have been no reported citations in NEP sections L (P&ID Verification) or P (Hot Work Permits).

> There has been only one reported citation in NEP sections M (Contractor Safety), O (PSSR), and Q (Incident Investigation Reports).

> As expected, there have been numerous reported citations for not following RAGAGEP (recognized and generally accepted good engineering practices).

> Although there were concerns that OSHA would try to stretch the PSM regulation by the interpretations embedded in the NEP, this appears to have occurred only in a few, limited cases.

> Similarly, although the industry was concerned about the undisclosed, “dynamic” list of NEP questions, it does not appear that OSHA is pushing the envelope with any of these questions.


In other words, the reported citations appear to be based on the regulation, previous interpretations and the static questions.

Finally, OSHA leadership continues to consistently say that an NEP for the much larger chemical industry is coming.

According to Fairfax, “Beginning this year, chemical companies will receive a battery of complex PSM inspections” (“OSHA Targets Chemical Plants,” Chemical & Engineering News, March 17). He and others say this chemicals NEP would be modeled after the refinery NEP, but would require more OSHA inspectors to be trained and extend for a longer time period.

Thus, the petrochemical industry should continue to work toward implementing and maintaining their PSM programs at a high level, not only because it is the right thing to do, but to be ready for a possible future NEP inspection.

**If you would like more information or tools/guidance on dealing with refinery or chemicals NEP issues, contact Jim Thompson at [jthompson@absconsulting.com](mailto:jthompson@absconsulting.com) or call (281) 673-2853.** □



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