



April 12, 2013

SUBMITTED VIA E-MAIL

Chemical Safety and Hazard Investigation Board
Office of Congressional, Public, and Board Affairs
2175 K Street, NW, Suite 650
Washington, DC 20037

Attn: D. Horowitz

Docket Number CSB-13-01

Dear Mr. Horowitz:

The American Chemistry Council¹ (ACC) is pleased to provide a written response to the U.S. Chemical Safety and Hazard Investigation Board's (CSB) March 23, 2013 request for comments on certain CSB recommendations. These recommendations are listed below and are followed by ACC's comments. We hope that CSB will find our contribution helpful. Should you have questions about our input, please contact me by phone at (202) 249-6426 or by e-mail at Rachel_meidl@americanchemistry.com.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rachel Meidl", is written over a light gray background.

Rachel Meidl
Director, Regulatory & Technical Affairs

¹ ACC represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$760 billion enterprise and a key element of the nation's economy. It is the largest exporting sector in the U.S., accounting for 12 percent of U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and to defend against any threat to the nation's critical infrastructure.



**American Chemistry Council Response to the March 23, 2013
Chemical Safety and Hazard Investigation Board
Request for Comments**

1. Recommendation No. 2005-04-I-TX-7 to the American Petroleum Institute (API) and the United Steelworkers International Union (USW)

Work together to develop two new consensus American National Standards Institute (ANSI) standards. In the second standard, develop fatigue prevention guidelines for the refining and petrochemical industries that, at a minimum, limit hours and days of work and address shift work. In the development of each standard, ensure that the committees a. are accredited and conform to ANSI principles of openness, balance, due process, and consensus; b. include representation of diverse sectors such as industry, labor, government, public interest and environmental organizations and experts from relevant scientific organizations and disciplines.

ACC Response: ACC considers RP 755 to be sufficient in its current form and believes that revisiting the standard is not warranted. As a result of this standard, there has been significant progress in the area of fatigue management that will continue to improve through periodic reviews and updates of the standard. ACC has reviewed CSB's evaluation of RP 755 and API's response to the recommendation and concluded that CSB did not adequately consider the nature of the ANSI process when it developed its recommendation. Furthermore, the agency also made unrealistic assumptions about the content of the standard, which led CSB to deem the standard unacceptable. ACC believes that if the agency re-evaluates the standard—considering the spirit of its recommendation and keeping in mind that the standard is a living document—it will find that RP 755 represents significant progress in the area of fatigue management in refinery and petrochemical facilities. ACC therefore recommends that CSB conduct such a re-evaluation and is confident that the agency will arrive at a more positive conclusion about the efficacy of RP 755.

ACC looks forward to working constructively with CSB and the other RP 755 Committee members to conduct the first periodic review of RP 755.

2. Recommendation 2001-05-I-DE-1 to the Occupational Safety & Health Administration (OSHA)
Ensure coverage under the Process Safety Management Standard (29 Health Administration CFR 1910.119) of atmospheric storage tanks that could be involved in a potential catastrophic release as a result of being interconnected to a covered process with 10,000 pounds of a flammable substance.

ACC Response: ACC believes that reopening the PSM standard as recommended by CSB is not warranted. These issues have been fully and adequately addressed through the following vehicles: the 1997 Meer court decision (Secretary of Labor v. Meer Corporation, OSHRC Docket No. 95-0341); OSHA interpretation memorandum distributed to Regional Administrators from the Director of Compliance Programs (Subject: Coverage of Stored Flammables Under the Process Safety Management Standard, dated May 12, 1997); and a February 11, 2003, OSHA letter of interpretation (Subject: Clarification of



PSM applicability to processes that are based partly or solely on quantities in connected atmospheric storage tanks). Consequently, reopening the PSM standard for revision is not necessary.

3. Recommendation No. 2005-04-I-TX-R9

Amend the OSHA PSM standard to require that a management of change (MOC) review be conducted for organizational changes that may impact process safety including:

- a) Major organizational changes such as mergers, acquisitions, or reorganizations;*
- b) Personnel changes, including changes in staffing levels or staff experience; and*
- c) Policy changes, such as budget cutting.*

ACC Response: ACC believes that reopening the PSM standard as recommended by CSB is not warranted. These issues have been fully and adequately addressed through an OSHA interpretation memorandum distributed to Regional Administrators from the Director of Enforcement Programs (Subject: Management of Organizational Change, dated April 1, 2009). As a result, reopening the PSM standard for revision is not justified.

4. Urgent Recommendation to OSHA 2010-07-I-CT-UR1

Promulgate regulations that address fuel gas safety for both construction and general industry. At a minimum:

- a. Prohibit the release of flammable gas to the atmosphere for the purpose of cleaning fuel gas piping.*
- b. Prohibit flammable gas venting or purging indoors. Prohibit venting or purging outdoors where fuel gas may form a flammable atmosphere in the vicinity of workers and/or ignition sources.*
- c. Prohibit any work activity in areas where the concentration of flammable gas exceeds a fixed low percentage of the lower explosive limit (LEL) determined by appropriate combustible gas monitoring.*
- d. Require that companies develop flammable gas safety procedures and training that involves contractors, workers, and their representatives in decision-making.*

ACC Response: ACC is aware that the CGA is actively addressing this issue. We will defer comment until we have had time to review their efforts.

