

COMMENTS ON US CHEMICAL SAFETY BOARD RECOMMENDATIONS  
CONCERNING OSHA STANDARD ON PROCESS SAFETY MANAGEMENT  
AND  
REACTIVE CHEMICAL HAZARDS

July 25, 2013, Washington, DC

Change to Win appreciates the opportunity to present our views on the Recommendations concerning the Process Safety Management.<sup>1</sup>

We support the Board's work to maintain attention to these critically-important improvements in OSHA's most important standard on safety in the chemical industry.

The Board is not formally considering its other major recommendation, regarding Reactive Chemical hazards. The Board's issued its landmark study and Recommendation in 2002, and OSHA initially refused to provide an adequate response.<sup>2</sup> OSHA's response in 2003 was especially unfortunate because OSHA had recognized the severity of the gap in the PSM standard in 1995, following the horrific incident at Napp Technologies in NJ. OSHA also had made considerable efforts in the 1990's to prepare for formal rulemaking, and Administration's decision to drop it from the Regulatory Agenda in 2001 was indeed shameful.

Those Recommendations are as important and relevant now as they were then. The recent catastrophe in West Texas demonstrates the urgency of closing the loopholes on Reactive chemicals in the basic OSHA and EPA regulations on chemical factories and storage facilities, as Chairman Moure-Eraso clearly stated in his recent testimony to the Senate Committee on the Environment and Public Works.<sup>3</sup>

The fault for that continuing gap is not solely one of failure by OSHA. In 2010, during a webchat on the Regulatory Agenda,, Ass't. Labor Secretary David Michaels stated the following in response to a question from a reporter about the failure to respond to the 2009 Congressional request for action on reactive hazards and the PSM standard:

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<sup>1</sup> Our views on the Combustible Dust Recommendations are incorporated into the document submitted separately by the labor union group.

<sup>2</sup> On Feb. 2, 2004, the Board formally designated OSHA's Response as "Open – Unacceptable." See: Letter from CSB Chair Carolyn Merritt to Assistant Labor Secretary John Henshaw, Feb. 4, 2004.

<sup>3</sup> The Board's 2009 Recommendation of the incident at the T2 Laboratories also noted the severity of reactive chemical hazards.

“Reactive hazards are of great concern to OSHA. Unfortunately, there are a large number of other major priorities on the regulatory agenda at the current time and our resource constraints make it impossible to add reactive hazards at this time. Meanwhile, we are planning to address reactive hazards through a compliance directive.”<sup>4</sup>

OSHA never issued the Compliance Directive dealing with reactive chemical hazards either.

It is simply unacceptable that the Office of Management and Budget would have allowed OSHA to be forestalled from dealing with such a critically-important protection, merely because of shortage of funds. Standard-setting is among the smaller parts of OSHA’s entire budget, and a few million dollars to support such a rulemaking would make no difference to the Administration’s budget priorities.

We are pleased that OSHA has reinstated the PSM standard in the latest Regulatory Agenda. But we are deeply saddened and enraged that it only happened after the Ammonium Nitrate explosion in West, TX. The people of West Texas have paid a huge price for the continuing failure of the Labor Department, EPA, the Office of Information and Regulatory Affairs and the Office of Management and Budget to fix this problem. We hope that they will be the last, but we fear that the reactive chemical hazards lurking throughout our nation will inflict their toll on many more communities in the future until the gaps are closed.

We urge the Board to take note of this additional issue as it conveys its concerns about the gaps in OSHA PSM standard and EPA’s RMP Standards to the appropriate parties, including the Congress, these two agencies and the oversight agencies at OMB who bear major responsibility for failures in the Administration’s regulatory program.

Respectfully Submitted,

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<sup>4</sup> OSHA Webchat on Regulatory Agenda, April 26, 2010, at 1:36pm.