



U. S. Chemical Safety and Hazard Investigation Board RECOMMENDATIONS STATUS CHANGE SUMMARY

Report:	Motiva Enterprises Sulfuric Acid Tank Explosion
Recommendation Number:	2001-5-I-DE-R1
Date Issued:	August 28, 2002
Recipient:	Occupational Safety and Health Administration (OSHA)
New Status:	Open-Unacceptable Response
Date of Status Change:	July 25, 2013

Recommendation Text:

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.

Board Status Change Decision:

A. Rationale for Recommendation

The recommendation followed a fatal explosion involving a poorly maintained, corroded storage tank of spent sulfuric acid and flammable hydrocarbons at the Motiva Enterprises refinery in Delaware City in July 2001. The company considered the tank to be exempt from the OSHA Process Safety Management standard under the 1997 Meer court decision. This decision was issued by an administrative law judge of the Occupational Safety and Health Review Commission; it exempts “flammable liquids stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration.” The CSB investigation concluded that if Motiva had adhered to PSM standard requirements for the tank, however, the accident would likely have been avoided.

B. Response to the Recommendation

OSHA has not agreed to undertake rulemaking to clarify the PSM standard with regard to the tank issues involved in this case. In 2003, OSHA stated that it would issue a revised PSM Compliance Directive that would specify that tanks like the one at Motiva (which OSHA contended had a process function as well as a storage function) were covered under PSM. While not fully responsive to the CSB recommendation, this action would have addressed some of its intent, assuming the revision would be implemented through enforcement in the field and would withstand any future potential legal challenges. The CSB has inquired about the progress of this revision on multiple occasions, without receiving a clear answer until a recent communication from the Assistant Administrator for OSHA, which promised completion of a revision in 6-9 months. To date, however, OSHA has neither revised PSM nor issued a revised compliance directive.

C. Board Analysis and Decision

Because ten years have passed and OSHA has yet to take any rulemaking or alternative actions that would address the intent of the recommendation, the Board votes to change the status of Recommendation 2001-5-I-DE-R1 to “Open-Unacceptable Response.”