

**U.S. DEPARTMENT OF LABOR  
SECRETARY OF LABOR  
WASHINGTON, D.C.**

SEP 8 1997

The Honorable Wendell Ford  
United States Senate  
Washington, D.C. 20510

Dear Senator Ford:

I am writing in response to your inquiry about the applicability of OSHA's Process Safety Management (PSM) standard to the distilled spirits industry.

As you know, the PSM standard is designed to protect workers from the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals. PSM is not currently being applied to stored flammables in "atmospheric tanks," even if they are connected to a "Process" within the definition of the standard. This limitation, which was detailed in an OSHA compliance directive issued on May 12, 1997, is in place due to an Administrative Law Judge's decision in *Secretary of Labor v. Meer Corporation*. In *Meer*, the judge ruled that the language of the standard did not support OSHA's interpretation that such stored flammables would be covered if connected to a "process."

When the directive was issued, OSHA indicated that it would abide by the *Meer* decision, and would not cite 1910.119 where stored flammables in atmospheric tanks were connected with a process, unless the process, itself, used more than 10,000 pounds of the substance. However, OSHA also stated its intention to consider amending the standard to clearly cover flammables in such circumstances.

In light of issues raised by *Meer*, OSHA anticipates reviewing and amending the PSM standard. During that review, OSHA will attempt to determine whether the processes used by distilleries merit alternative treatment under a revised PSM standard. As with any review, OSHA will carefully consider comments presented by the industry and its workers to ensure that a fair and effective rule is developed.

I understand that your concerns about the applicability of PSM regulations in distilleries extend beyond those instances when coverage of the process would be based partly or solely on the quantity of flammable liquid in connected storage tanks. Except in the event of a fatality or catastrophe involving a process that uses ethyl alcohol in a distillery or related facility, OSHA is not enforcing and will not enforce the Process Safety Management standard with respect to processes in distilleries and their related facilities pending completion of OSHA's revision of the PSM standard.

Sincerely,

Alexis M. Herman  
Signed on original

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