PATTON BOGGS LLP

INSIGHTS JANUARY 2012 - CHEMICAL SAFETY BOARD

CSB ALLEGES FAILURE TO ACT BASED ON AN INSURANCE AUDIT

Hoeganaes Corp. officials allegedly were aware of serious safety hazards at their Tennessee metal-powders plant, but did not eliminate the problems before a series of flash fires this year killed five workers and injured four others. The U.S. Chemical Safety Board (CSB) came to the conclusion after its investigation of a fire in January 2010 that left two workers dead and back-to-back explosions in May that killed three others. CSB said an insurance audit in 2008 raised questions about combustible iron dust at the Gallatin plant, but the company failed to act on them. Investigators recommended changes in the way combustible dust is collected, and said a program is needed to maintain pipes that carry hydrogengas. They also recommended that OSHA issue a regulation on combustible dust. Hoeganaes, a New Jersey-based subsidiary of a British company, makes metal powders for the auto industry.

HAZARDOUS WASTE SITE SAFETY

CSB has issued another call for action to develop a national fire code for hazardous waste handling facilities following the death of an Ohio worker last month. In the Ohio accident, a flash fire occurred at Heritage-WTI, Inc. in East Liverpool as workers split a large solid waste drum of hazardous flammable inorganic material into small storage drums. After accidents in 2006 and 2009, the Board asked a hazardous waste industry trade group to petition the National Fire Protection Association (NFPA) to issue a standard specific to hazardous waste treatment, storage and disposal facilities. CSB noted that the Environmental Technology Council (ETC) has yet to act on the recommendation. CSB also urged ETC to develop a member guidance document on safe processing, handling and storage procedures for hazardous waste.

Important Note: This document does not constitute legal advice and counsel should be consulted regarding specific factual situations which will determine the compliance advice applicable to any particular question regarding the subject matter. If you would like additional information or advice and counsel on training, compliance or audits, please let us know.