



# Review and Impact of the OSHA Wynnewood Decision

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# Key Topics

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- Adopted from 06 July 2022 Webinar by Craig Stickelmaier
- Incident Background
- Key Points of the OSHA Ruling and U.S. Court of Appeals (10th Circuit) Decision
- Potential PSM and PHA Impacts
- Questions?



# Incident Background

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- On September 28, 2012, explosion occurred during startup of the Wickes Boiler at the Wynnewood Refinery
- Two fatalities
- Explosion occurred due to accumulation of uncombusted natural gas in the boiler firebox
- Wickes boiler located within the battery limits of the Fluid Catalytic Cracking Unit (FCCU)
- Wickes boiler connected to the FCCU and Alkylation (Alky) Unit
  - FCCU supplies refinery fuel gas to the Wickes boiler (natural gas was being used as fuel at the time)
  - FCCU contains flammable gas (Highly Hazardous Chemical, HHC) in excess of 10,000 lbs.
  - Wickes boiler supplies steam to the 225# refinery steam header, which is connected to other refinery processes that are PSM-covered

# OSHA Definition of “Process”

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29 CFR 1910.119(b):

*Process* means any activity involving a highly hazardous chemical including any use, storage, manufacturing, handling, or the on-site movement of such chemicals, or combination of these activities. For purposes of this definition, any group of vessels which are **interconnected** and **separate vessels** which are **located such that a highly hazardous chemical could be involved in a potential release** shall be considered a single process.

# OSHA Ruling

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## OSHA Ruling:

- Wickes boiler is PSM-covered because it is interconnected with the FCCU and Alky Unit, which are both bound by OSHA PSM (29 CFR 1910.119) for having threshold quantities of HHCs
- Wickes boiler was “located such that a highly hazardous chemical could be involved in a potential release”

# Appeal by Wynnewood

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Wynnewood Contested the OSHA Ruling:

- Wickes boiler was not PSM-covered because it did not contain any highly hazardous chemicals
- The Wickes boiler was not PSM-covered because of either its interconnection with or location near a process

# U.S. Court of Appeals for the 10<sup>th</sup> Circuit's Decision

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## Court of Appeals Affirms:

- Wickes boiler *is* PSM-covered because it is interconnected with PSM-covered processes in the FCCU and Alky Unit.

# Potential PSM and PHA Impacts

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- Reconsider treating utility areas as non-PSM-covered based on the following:
  - Can a HHC be involved with any activity, considering *either* interconnectedness of equipment *or* co-location?
- Consider including utility areas within the scope of Process Hazard Analyses (PHAs)
  - Consider putting more emphasis on reviewing utility connections during the Process Unit PHA



# References

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1. OSHA Review Commission Ruling

<https://www.oshrc.gov/assets/1/6/13-0644.pdf>

2. U.S. Court of Appeals for the 10th Circuit's Case

<https://law.justia.com/cases/federal/appellate-courts/ca10/19-9533/19-9533-2020-10-27.html>

# Questions?

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