



**American
Forest & Paper
Association**

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EPA Docket Center
Environmental Protection Agency
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RE: Docket ID No. EPA-HQ-OLEM-2022-0174; Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Safer Communities by Chemical Accident Prevention (87 Fed. Reg. 53556, August 31, 2022)

The American Forest and Paper Association (AF&PA) submits these comments on the proposed revisions to the Risk Management Program (RMP) regulations titled Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Safer Communities by Chemical Accident Prevention (87 Fed. Reg. 53556, August 31, 2022). The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

AF&PA's sustainability initiative — *Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future* — comprises one of the most extensive quantifiable sets of sustainability goals for a U.S. manufacturing industry and is the latest example of our members' proactive commitment to the long-term success of our industry, our communities and our environment. We have long been responsible stewards of our planet's resources. AF&PA members met or surpassed many of the goals outlined in our previous sustainability initiative, *Better Practices, Better Planet 2020*, including a 23.2 percent reduction in GHG emissions; 13.3 percent improvement in purchased energy efficiency; 38.4 percent reduction in workplace injuries; and 12 percentage point increase in wood fiber procurement from certified forestlands.

America's paper manufacturing industry is firmly committed to operating safe facilities and actively works to achieve this goal. Our commitment to minimize the use of hazardous chemicals and carefully safeguard our use of chemicals well pre-dates the concept of accident prevention and risk management planning required by OSHA's Process Safety Management and EPA's Risk

Management Programs. We have a track record of safe operation and are diligent in efforts to comply with these regulations and achieve the objectives of the General Duty Clause of the Clean Air Act in Section 112(r).

Over the past two decades the paper industry has made great strides in reducing the type and amount of chemicals in its processes. For instance, as recently as the 1990's, the use of elemental chlorine delivered and stored in 90-ton tank cars was a common practice. Chlorine for bleaching has been chiefly replaced by a dilute aqueous solution of chlorine dioxide generated on site. This change in practice has reduced not only the potential on- and off-site hazards associated from mill processes, but also the potential hazards associated with transporting hazardous chemicals through populated areas.

The RMP regulations have been successful, and updates are not needed to ensure ongoing safe operation of our facilities. Many of the proposed requirements are not justified and would result in substantial additional burden with no improvement in facility safety.

Thank you for your consideration of these comments. Please feel free to contact Stewart Holm of AF&PA at 202-463-2709 if you have questions about these comments or need more information.

Sincerely,



Paul Noe
Vice President for Public Policy
American Forest & Paper Association

cc: Stewart Holm, AF&PA

Attachment

I. Executive Summary

Over the past two decades the paper industry has made great strides in reducing on- and off-site risk due to continuously improving practices and close attention to the type and amount of hazardous chemicals in its processes. Consistent with the industry's philosophy, we offer comments on EPA's proposed revisions to the RMP program with a focus on ways to improve the program to safeguard the public and the environment without posing unnecessary burdens and/or additional requirements that will not advance the goals of the RMP program established by the Clean Air Act.

Our thoughts and ideas on the proposed RMP revisions are summarized as follows:

- **Pulp & Paper Manufacturers Have a Strong Safety Record.**

The strong safety record is reflected in the fact that there have been no reported off-site injuries in nearly 10 years.¹ A survey of our industry and review of EPA's RMP accident history indicate that over the past 20 years the industry has been making great strides in safety performance as the rate of reported incidents has steadily declined. This is in no small part due to continuous industry efforts to improve process efficiency, environmental impact and safety.

- **Expansion of the Risk Management Program is Not Necessary.**

EPA's approach to revising the Program has not included a sufficiently thorough evaluation of how effective the program has been. EPA's review of accidents has indicated that many have been associated with processes and chemicals that are not regulated under RMP and that others are associated with circumstances under which there was less than full compliance with the requirements of the current rule. There is no basis for concluding the proposed changes would have been effective in preventing or limiting the consequences of these events.

- **EPA Correctly Determined that it Should Not Impose STAA on the Paper Manufacturing Sector.**

Paper making is not among the manufacturing sectors that were cited in the preamble to the proposed rule and following the conversion to elemental chlorine free bleaching generally does not have processes that would result in substantial off-site risks. For the bleaching process, the

¹ EPA-HQ-OLEM-2022-0174-0065

substitution of a dilute aqueous solution of chlorine dioxide produced on-site for liquefied chlorine shipped and stored in railroad tank cars represents an inherently safer technology.

- **Root Cause Analyses Should not be Required for All Incident Investigations.**

A root cause analyses can be a useful tool when investigating major incidents involving complex processes. It is not very useful and is likely to be an inappropriate use of engineering resources when investigating minor releases or minor near misses, especially for simple processes. It, therefore, should not be required for all types of incidents but only for catastrophic or potentially catastrophic consequences.

- **Third-Party Compliance Audit Requirements Are Overly Burdensome.**

Although the proposed third-party audit requirements are an improvement over the 2016 proposal, the restrictive requirements for auditors will ensure a shortage of qualified, experienced professionals who also understand complex mill processes and their operations. EPA should apply a pro-active approach that targets facilities that have poor recent accident histories rather than waiting for an accident to happen and then turning the audit into an enforcement tool.

- **Emergency Response Enhancements are Generally Supported.**

Paper mills have a long history of working cooperatively with emergency response agencies. We recognize that informing the public of emergencies is critical, and facilities should be responsible for notifying emergency response organizations of emergencies potentially impacting the local community. However, emergency response organizations operate and maintain community emergency notification systems. It is inappropriate for facilities bear the burden of notifying the local community of emergencies.

- **Enhanced Public Availability of RMP Information Goes Too Far.**

While there has in limited cases been a dearth of information about facility hazards in some locales, the extent of the proposed information sharing goes well beyond information that is appropriate or useful in ensuring emergency preparedness and response. The type and amount of information regarding details of a facility's RMP should not exceed what is included in the Risk Management Plan. The additional information in the proposed rule would be difficult to interpret and of limited usefulness to the public.

- **Changes to the RMP Rule Must be Harmonized with PSM Requirements.**

Paper mills, especially those manufacturing bleached pulp and paper products, generally have one or more covered processes that are subject to EPA's RMP Rule with a Program 3 accident prevention program. All of the chemicals and processes described below are also regulated by OSHA's Process Safety Management (PSM) program. Because the RMP Program 3 prevention program and PSM have overlapping requirements, changes to the RMP prevention program elements will necessarily be reflected in each mill's PSM program. Chemicals and processes commonly subject to RMP include the following:

- Chlorine Dioxide is added near the end of the pulping process as a bleaching agent to provide the desired "whiteness" of the finished paper products. The chemical is generated on site in an aqueous solution at a concentration of one percent (10 g/liter) or greater and this solution is then stored in tanks and transferred by pipe to the bleaching process. Once the chlorine dioxide solution is mixed with the pulp it becomes diluted and reacts such that the concentration in this part of the process falls below the 1% RMP threshold.
- Chlorine is commonly used as a disinfectant to supply potable water and water needed for pulp and paper processes at a mill and can also be used for wastewater treatment. Typically, chlorine is delivered in one-ton cylinders as a liquefied pressurized gas stored at ambient temperature. Cylinders are delivered by truck to a secured area. The pressure in the cylinder transports chlorine vapor to the injection point where reactions and dilution with water readily reduce concentrations below the 1% RMP threshold.
- Some mills also process treated wastewater using liquefied sulfur dioxide and ammonia gases stored at ambient temperature.

Generally, paper mills do not store regulated quantities of RMP-listed flammable substances. Flammable turpentine, a PSM regulated chemical, is a by-product of the pulping process. Methanol, which is also regulated under PSM but not RMP, is part of the chlorine dioxide bleaching process. Both of these flammable substances are regulated under PSM, which identifies volatile flammable liquids as a class of regulated substances.

- **RMP Proposal Does Not Provide Adequate Public Notice and Comment.**

The Clean Air Act requires federal agencies to provide public notice and an opportunity for comment on any proposed rule.² AF&PA joined with several other industry associations on October 4, 2022, to request EPA extend the comment period for the proposed RMP revisions beyond October 31, 2022, which has been denied. Given the complexity and magnitude of this proposed rule and the impact it will have on our members and all members of the RMP regulated community, a 60-day comment period is insufficient to provide affected parties with adequate time to address the legal and technical aspects of this proposal effectively.

A number of the topics in this proposed rulemaking were initially set forth in EPA's January 13, 2017, amendments to the RMP Rule. However, the proposed rule includes numerous significant technical and legal requirements that go beyond the 2017 amendments and seeks a greater level of comment from stakeholders. In order to thoroughly review and analyze the impact of these proposed changes and to develop and provide comprehensive and thoughtful comments, including proposed alternatives that could further enhance chemical safety, AF&PA requires more time to research and comment on the issues than the Agency is providing.

As a national trade association, we require sufficient time to inform, educate and review with our members each of the proposed new requirements in the proposal in order to develop comments.

- **Compliance Dates Should be Consistent with CAA Section 112(r)(7)(B)(i).**

AF&PA supports the compliance dates proposed by EPA consistent with CAA section 112(r)(7)(B)(i). Generally, compliance is required 3 years after the effective date of the final rule, and 4 years after the effective date of the final rule to update and resubmit risk management plans.

II. Specific Comments

AF&PA has prepared our comments following the outline in the proposed rule as EPA requested. AF&PA also reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover.

² 42 U.S.C. 7607(d).

1. Natural Hazards

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 2.a of our common comments.

Natural hazards are already considered in facility prevention programs.³ Climate change is not a discrete natural event (e.g., lightning, tornadoes, floods) that can be evaluated. Climatic influences on natural hazards develop slowly over multiple decades,⁴ not the 5-year horizon of the next hazard evaluation.

EPA's 2004-2020 RMP Database provided as Appendix A of the Technical Support Document⁵ identifies 8 accidents initiated by natural hazards between 2016 and 2020, with another 12 accidents where unusual weather was identified as a contributing factor. Natural hazards and unusual weather combined are involved in approximately 4 percent of the 488 accidents reported between 2016 and 2020.

EPA's RMP accident data does not support requiring hazard evaluations for natural hazards, earthquakes, or climate change.

2. Power Loss

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 2.b of our common comments.

The information provided in the preamble does not justify elevating power loss to an explicit hazard evaluated in hazard reviews and PHA's. The preamble highlights three accidents related to power loss.⁶

The 2001 General Chemical Corp. accident occurred more than 20 years ago and predates the EPA RMP Database.⁷ Accidents that predate the EPA's RMP accident data do not capture the safety improvements resulting from more than 20 years of RMP implementation. These legacy examples

³ 87 FR 53567

⁴ EPA-HQ-OLEM-2022-0174-0005 (p.40)

⁵ EPA-HQ-OLEM-2022-0174-0065

⁶ 87 FR 53569

⁷ EPA-HQ-OLEM-2022-0174-0065

of accidents are not contemporaneous and should be excluded from justification for proposed changes to the current regulations.

The 2010 Millard Refrigerated Services accident is attributed to power loss in the preamble;⁸ however, in the EPA RMP Database the accident is attributed to a piping failure along with several contributing factors. The EPA RMP Database does not indicate power loss being associated with this accident in column CG of tab “All_accidents_2004_2020”. The preamble⁹ and the RMP Database specify only 20 accidents between 2004 – 2020 are associated with power loss, out of 2,436 accidents in the RMP database, resulting in less than 1% of all RMP reported accidents being associated with power loss.

In the 2017 Arkema Inc. chemical plant fire, the preamble¹⁰ states the incident was the result of flooding of a non-RMP process. The U.S. Chemical Safety and Hazard Investigation Board (CSB) Investigation Report¹¹ of the accident makes clear the rising flood waters required intentionally shutting-down commercial power to the facility due to rising water. Eventually the facility backup power was also intentionally shutdown to prevent employees monitoring the plant from being electrocuted as flood waters continued rising. The Arkema facility also had a backup liquid nitrogen system to provide emergency cooling, but this system was also overcome by rising water. Ultimately, the flood waters reached the temporary refrigerated storage trailers of last resort and compromised the fuel systems of those trailers, leading to the accident of the non-RMP covered process. The Arkema accident does not support the requirement to include power loss in the PHA. As stated in the CSB Incident Report, the Arkema PHA included three layers of protection from loss of power.

The preamble discusses the potential impact of recent winter storms creating major power outages in Texas (February 2021) and Virginia (January 2022).¹² While these situations may capture national headlines for the lifestyle disruptions they create, EPA provides no supporting examples of an RMP accident related to power loss during these natural hazard events.

⁸ 87 FR 53569

⁹ 87 FR 53570

¹⁰ 87 FR 53568

¹¹ CSB Investigation Report “Organic Peroxide Decomposition, Release, and Fire at Arkema Crosby Following Hurricane Harvey Flooding”

¹² 87 FR 53570

The preamble also discusses a European Union (EU) study of power failures worldwide on chemical facilities.¹³ The EU study on worldwide power failures and the impact to worldwide chemical facilities is irrelevant in the context of developing RMP regulations applicable to chemical facilities located in the United States.

Air pollution control or monitoring equipment is powered by the facility electrical distribution system powering all other equipment and operations. Installing a separate electrical system to allow providing standby or backup power to air pollution monitoring equipment is unnecessary and would be extremely difficult and complex to implement at an existing facility.

The cost to install and maintain a completely independent electrical system capable of supplying backup power to air pollution control or monitoring equipment is not properly considered or justified by EPA in the proposed rule. The source of standby or backup power is necessarily a fossil-fueled internal combustion engine which requires routine testing and generates undesirable emissions in conflict with the climate change mitigation goals of Executive Order 13990 directing EPA to review the RMP Rule.

The data and examples provided by EPA in the preamble do not support adding power loss to the hazards evaluated in hazard reviews and PHA's. Requiring standby or backup power is unnecessary and unreasonable based on the low number of RMP accidents associated with loss of power.

3. Stationary Source Siting

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 2.c of our common comments.

AF&PA supported EPA's decision in the previous rule not to add facility siting requirements. For long-established U.S. industries such as paper manufacturing, the mill towns have grown surrounding the facility and as such safe operation has always been the highest priority. We note that "facility siting" is already one of the factors required to be considered in the PHA. In the context of a PHA for an existing facility, siting issues relate more to potential worker as well as off-site exposure in the event of a release. This consideration, for example, may affect the placement of pressure relief vents, or for a process in the design stage the PHA could address location of a process unit. Many newer industries are able to locate facilities in areas zoned for the specific types

¹³ 87 FR 53569

of activities. Although information such as endpoint distances can be useful in finding appropriate sites, the RMP rule should not include specific siting requirements. It is our position that siting for a new facility or facility expansion remains the purview of local zoning regulations.

4. Hazard Evaluation Recommendation Information Availability

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 2.e of our common comments.

5. Safer Technology and Alternatives Analysis (STAA)

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 3.d of our common comments.

We concurred with EPA's initial assessment of STAA when it addressed this issue during the development of the RMP. After careful consideration, EPA appropriately concluded that there should be programs to encourage use of safer technology, but it is appropriate that they remain voluntary. At the time EPA adopted the RMP Rule in 1996, it addressed this issue as follows:

EPA does not believe that a requirement that sources conduct searches or analyses of alternative processing technologies for new or existing processes will produce additional benefits beyond those accruing to the rule already. As many commenters, including those that support such analyses, pointed out, an assessment of inherently safer design alternatives has the most benefit in the development of new processes. Industry generally examines new process alternatives to avoid the addition of more costly administrative or engineering controls to mitigate a design that may be more hazardous in nature. Although some existing processes may be superficially judged to be inherently less safe than other processes, EPA believes these processes can be safely operated through management and control of the hazards without spending resources searching for unavailable or unaffordable new process technologies.¹⁴

The proposed rule is a reversal of EPA's previously well-considered approach.

¹⁴ USEPA, Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, 61 Fed. Reg. 31668, 31699 (Jul. 20, 1996).

AF&PA supports EPA's conclusion that STAA is not appropriate for NAICS Code 322 (paper manufacturing).¹⁵ AF&PA submitted comments¹⁶ in response to the March 15, 2016, RMP Proposal detailing why STAA is not appropriate for our industry. As discussed by EPA in the Technical Support Document¹⁷, the number of accidents occurring between 2016 and 2020 in the paper manufacturing sector is low and the accidents have resulted in no offsite consequences (i.e., no sheltering in place, no evacuations, and no offsite property damage). Furthermore, due to the low number of accidents in our industry, our co-location with other RMP facilities is not a safety concern.

Following the conversion to elemental chlorine free bleaching, paper mills generally do not have processes that would result in substantial off-site risks. For the bleaching process, the substitution of a dilute aqueous solution of chlorine dioxide produced on-site for liquefied chlorine shipped and stored in railroad tank cars represents an inherently safer technology.

Applying STAA to existing processes is not feasible at most paper mills because processes are fully integrated with one-another rather than being comprised of interchangeable components. Applying technologies as a retrofit to an existing process is rarely as feasible or effective as applying them to a new process. If EPA were to determine that STAA should be required for this sector, STAA should only apply to new or re-designed processes at the stage where new technologies can be more readily accommodated.

6. Root Cause Analysis

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 3.c of our common comments.

A root cause analyses should not be required for all Incident investigations. A root cause analyses can be a useful tool when investigating major incidents involving complex processes. It is not very useful and is likely to be an inappropriate use of engineering resources when investigating minor releases or minor near misses, especially for simple processes. It, therefore, should not be required for all types of incidents but only for catastrophic or potentially catastrophic consequences.

¹⁵ 87 FR 53578

¹⁶ EPA-HQ-OEM-2015-0725-0551

¹⁷ EPA-HQ-OLEM-2022-0174-0066

The CCPS definition of “near miss” requires speculation on what may have resulted if an incident had occurred under slightly different circumstances. The CCPS definition of “near miss” is too broad and ambiguous to achieve uniform implementation across all RMP facilities and processes.

The NJDEP “near miss” definition is too broad and includes scenarios where mitigation systems designed to prevent or mitigate an accidental release are successfully deployed. If a process is designed with interlocks, rupture disks, emergency relief valves, emergency shut down procedures or other systems to prevent or mitigate an accidental release, there is no added value to conducting a root cause analysis for an event the process has been designed to prevent or mitigate.

The NJDEP definition also requires speculation on whether an incident at another nearby non-RMP process creates the potential to cause an accidental release. If taken to the extreme, the consideration of near miss could include almost any process at a mill. Searching for near miss situations regardless of how tangential to the covered process is not feasible for complex industrial plants such as paper mills.

7. Third Party Compliance Audits

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 3.b of our common comments.

Moving to an exclusive use of third-party auditors is likely to change the nature of the audit process and add significant additional cost and time to the audit process (without justifiable benefit). Owing to fear of potential liability for errors and omissions, third parties will add unnecessary complexity to the auditing process, potentially loading audits with trivial findings and causing unnecessary delays in developing audit findings and recommendations and their ultimate implementation. Experienced and certified third-party auditors typically have high billing rates and would often be charging the client for the time spent becoming familiar with the process, the process hazard analysis and previous audits, all of which would already be known to corporate or in-house personnel who would be excluded from that role under the proposed, overly restrictive auditor independence requirements.

Reporting declined audit findings merely adds another reporting burden without improving safety. The declined findings may be administrative, trivial, or of no consequence to safety of the process.

8. Employee Participation

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 4 of our common comments.

EPA's proposed approach allows an employee to shut down a process based on the potential for a catastrophic release¹⁸. This language is too general and would conceivably allow every RMP covered processes to be shut down by an employee immediately based on EPA's statement that CAA 112 (r) in part "was intended as a prevention program for large catastrophic releases".¹⁹ The EPA's stated purpose of the proposed changes to the RMP rule is "to improve safety at facilities that use and distribute hazardous chemicals."²⁰ The purpose of the RMP rule is not shutting down processes or entire facilities, which the proposed vague general language would allow.

Participation of employees in facility activities and approval of facility policies at the majority of our member companies' facilities are governed by collective bargaining agreements. The CAA does not grant EPA the authority to unilaterally alter, nullify, or supersede collective bargaining agreements under the National Labor Relations Act.

9. Proposed Modifications and Amplifications to Emergency Response Requirements

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations under separate cover. Please refer to Section 5.a and 5.b of our common comments.

Paper mills have a long history of working cooperatively with emergency response agencies. We recognize that informing the public of emergencies is critical, and facilities should be responsible for notifying emergency response organizations of emergencies potentially impacting the local community. Facilities should not be required to directly notify the public of an accidental release. Notifications from both the facility and the local emergency response organization may potentially contain conflicting information about the accidental release, creating confusion and uncertainty in the local community.

In the preamble, EPA acknowledges the Integrated Public Alert & Warning System (IPAWS) community notification system is available nationwide to provide emergency and life-saving information to the public using wireless emergency alerts, as well as alerts through the Emergency

¹⁸ 87 FR 53591

¹⁹ 87 FR 53565

²⁰ 87 FR 53560

Alert System over radio, TV and cable stations.²¹ It is redundant to require facilities to bear the burden of providing direct notifications to the public, or requiring facilities to ensure the IPAWS community notification system exists.

The rule should also be clarified, requiring notification only for releases potentially impacting the offsite community. As noted above, EPA acknowledges²² none of the recently reported accidents in the paper industry impacted offsite communities.

10. Emergency Response Exercises

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 5.c of our common comments.

11. Information Availability

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 6 of our common comments.

AF&PA disputes EPA's claim "that public disclosure of risk management plan information would likely lead to a reduction in the number and severity of accidents."²³ Facilities strive to always operate safely and have significant financial and liability risks to operating otherwise. Public disclosure of risk management plan information will not incentivize facilities to improve safety.

Providing additional information to the general public may create unintended levels of community anxiety. In many cases the worst-case release is hypothetical, assumed to occur under the worst-case weather conditions using the theoretical maximum quantity of the RMP regulated chemical. The mandated worst-case weather conditions may never co-exist, for example extreme high daytime temperature and simultaneously a very stable nighttime atmosphere. Process conditions may only rarely exist when the maximum concentration of a chemical is also present at the maximum design capacity of the process. In many cases the worst-case release is from a storage vessel, which in reality is maintained at 80% of capacity to allow for operational flexibility in the manufacturing process where the chemical is found.

²¹ 87 FR 53597

²² EPA-HQ-OLEM-2022-0174-0066

²³ 87 FR 53602

The 6-mile radius is arbitrary and not appropriate. If information is made available to the public, only those public receptors within the distance to toxic endpoint identified in the Offsite Consequence Analysis should be allowed to request information from the facility. Any person(s) requesting information should be required to successfully complete a mandatory background check before any information is released to said person(s) to mitigate security concerns associated with the release of the information.

The following elements in RMP Sections 7 and 8 related to the PHA and hazard review have the potential to pose a security risk alone or in combination: major hazards identified, process controls, mitigation systems in use, monitoring detection systems in place, and changes made since the last PHA or hazard review. These elements, alone or in combination, provide too much insight into facility design, operation, and mitigation strategies that can be potentially exploited by person(s) contemplating intentional acts.

Specific information regarding security threats is held by the Department of Homeland Security. Providing documented security threats, or security risks from prior incidents or near misses, provides a road map for bad actors and propagates future security threats.

12. Other Areas of Technical Clarification

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover.

AF&PA does not support removing the sentence “Compliance with Federal or State regulations that address industry-specific safe design or with industry-specific design codes and standards may be used to demonstrate compliance with this paragraph.” Compliance with Federal or State regulations is not optional, it is required by law and corporate policies. If the OSHA flammable liquid standards in 49 CFR 1910.106 are not up to date with current NFPA or International Fire Code Standards²⁴, the OSHA Standards should be updated. The CAA does not grant EPA the authority to substitute compliance with current RAGAGEP for compliance with promulgated OSHA regulations.

Retention of hundreds of hot work permits for 5 years adds an unnecessary recordkeeping burden on facilities to maintain records simply to facilitate compliance auditing. The retention of hot work permits for 5 years provides no added safety benefits to the facility or the surrounding community.

²⁴ 87 FR 53604

There should be no requirement to retain hot work permits beyond completion of the hot work authorized by each permit.

13. Regulatory Impact Analysis

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover.

Over the past two decades (since PSM and RMP were established) the paper industry has made significant strides in modifying its processes to replace acutely hazardous chemicals. The key change that has greatly reduced potential off-site risk from papermaking is replacement of elemental chlorine with a weak solution of chlorine dioxide in the bleaching process. Prior to this innovation, chlorine was shipped from production facilities via railcar to the mills, where they were parked on railroad sidings at each mill. Potential off-site risks were associated with production, rail transport, on-site railcar movement, unloading, and process equipment. This practice was replaced by a system that produces chlorine dioxide on-site that is immediately diluted with water to a concentration of about 1%, thus reducing the vapor pressure, the toxicity, and the rate of release to the atmosphere from a spill at this concentration.

The paper industry has also made strides in reducing or eliminating the use of sulfur dioxide and anhydrous ammonia. For example, mills are replacing sulfur dioxide with sulfuric acid (for pH control), or anhydrous ammonia with urea as a nitrogen (food) source for wastewater treatment systems, which essentially eliminates these hazardous release risks.

The industry was able to make these types of safety improvements, effectively developing STAA, only through industry-wide research and development. These changes could not have been achieved by simply mandating the evaluation of safer alternatives for a given process at an individual mill.

14. Regulatory Flexibility Act Analysis

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover.

15. Other

AF&PA reiterates our comments submitted in conjunction with 18 sister Associations and the U.S. Chamber of Commerce under separate cover. Please refer to Section 7 of our common comments.

“Geologic hazards” should be excluded from the definition of natural hazard. Geologic hazards (seismic events, earthquakes, landslides, tsunamis, and volcanic eruptions) are known at the time a facility is located, designed, and constructed. There is no safety benefit to revisiting geologic hazards during each PHA. “Dam rupture” should be excluded from the definition of geologic hazard. Dams are man-made structures subject to dam safety regulations and inspections. It is unreasonable to require a facility to consider the failure of a dam subject to other safety regulations during a PHA.

The current definition of “mitigation or mitigation system” found in 40 CFR 68.3 properly defines active mitigation and passive mitigation with respect to minimizing public and environmental exposure to accidental releases of regulated substances. The proposed definition of active measures introduces the ambiguous undefined concept of detecting and responding to process deviations,²⁵ which is beyond the scope of the CAA and the authority granted to EPA. The proposed definition of passive measures introduces the ambiguous undefined concept of reducing either the frequency or consequence of the hazard,²⁶ which is beyond the scope of the CAA and the authority granted to EPA.

The current definition of “administrative controls” found in 40 CFR 68.3 properly defines “written procedural measures used for hazard control”. The proposed definition of procedural measures introduces the ambiguous undefined concept of preventing or minimizing incidents,²⁷ which is beyond the scope of the CAA and the authority granted to EPA.

III. Summary

Over the past two decades the paper industry has made great strides in reducing the type and amount of hazardous chemicals in its processes. Changes in practices have reduced not only the potential on- and off-site hazards associated from mill processes but also the hazards associated with transporting hazardous chemicals through populated areas.

Given the paper industry’s keen awareness and commitment to safeguarding workers and protecting the public, we hope EPA will recognize the proposed changes impose a significant burden to the economic viability of this important U.S. industrial sector, with no corresponding improvement in safety. As is detailed in our comments, we have identified a number of proposed

²⁵ 87 FR 53609

²⁶ 87 FR 53609

²⁷ 87 FR 53609

changes that in our judgment would not materially further process safety or risk management and thus would add an unnecessary burden to our industry.

Thank you for your consideration of these comments. Please feel free to contact Stewart Holm at 202-463-2709 if you have questions or require further information.