



THE CHLORINE INSTITUTE
1300 Wilson Boulevard, Suite 525, Arlington, VA 22209
Phone: 703-894-4140 Fax: 703-894-4130
www.chlorineinstitute.org

Environmental Protection Agency
Office of Pollution Prevention and Toxics
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

October 31, 2022

RE: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention ([EPA-HQ-OLEM-2022-0174](https://www.epa.gov/olem/olem-2022-0174))

Dear Sir or Madam:

The Chlorine Institute (“CI” or “The Institute”) is a 190-member, not-for-profit trade association of chlor-alkali producers worldwide. The Institute’s producer members account for the majority of the chlorine production capacity in the U.S., along with the majority of caustic soda and caustic potash production, hydrochloric acid production and one hundred percent of chlorine repackagers. The Institute’s mission chemicals¹ are used throughout the U.S. economy and are paramount to the protection of public health. CI members publish and regularly update industry guidance on safe handling practices. Additionally, Chlorine Institute members annually sign the Member Safety and Security Commitment, committing to audit their facilities and implement recommendations within CI’s published guidance.

With reference to the public comment period for the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention proposed rule (“Proposed Rule”), The Chlorine Institute requests that EPA reconsider its requirements on information disclosures, auditor qualifications, safer technologies and alternative analysis (“STAA”) requirements, and natural hazards and power loss.

Information Should be Available on a Need-to-Know Basis (*Section IV.C.3. of the Proposed Rule*)

Chlorine has a myriad of uses because of its reactive nature – with other chemicals to make useful products and with the human body. What makes chlorine so useful is also why chlorine must be

¹ CI’s mission chemicals are chlorine, sodium and potassium hydroxides, sodium hypochlorite, the distribution of vinyl chloride monomer (VCM), and the distribution and use of hydrogen chloride.

carefully handled and transported, to ensure chlorine reacts under controlled conditions. This includes both safety and security. Chlorine's reactive nature necessitates that those who produce and use it ensure that those with nefarious intent do not have access to chlorine, including storage location, transportation information, or detailed information about how emergency responses are conducted.

Authenticating Requestors Within a Six-Mile Radius Burdens Regulated Entities

In the rare event of a chemical release, the public needs to know what to do and who to call. From there, emergency incident command should provide detailed information to the public on how to respond appropriately, such as sheltering-in-place, to the chemical-specific nature of any release. The Proposed Rule would require regulated entities to provide the names of the responding emergency response agency(ies) to anyone within a six-mile radius. This information could be weaponized and puts a burden on regulated entities to authenticate users requesting this information. Requestors from outside of the six-mile radius have the ability to spoof phone numbers and obtain P. O. boxes.

The Public Should Know Who to Call to Report Suspicious Activity or Unusual Conditions

If multiple companies use the same third-party responding agency, nefarious actors could elicit responses through false reporting or decoy actions, only to divert emergency response resources from their actual intended target. In the rare event of an accidental release, the public simply needs to know who to call and what to do, not who will respond. CI urges EPA to remove the requirement to provide the exact responding organization to the public, but instead to provide the public with:

- whether or not the covered entity will respond with their internal team or with an external team
- procedures for informing the public and local emergency response agencies about accidental releases
- procedures for the public to report suspicious activity and/or emergency conditions
- list of scheduled exercises dates; month and year only
- LEPC contact information

Third Party Auditor Exclusions Could Limit Use of the Most Highly Qualified

(Section IV.A.2.c.iii. of the Proposed Rule)

We are pleased that the agency took comments into consideration and modified the exclusions of some of the individuals for use by certain facilities as auditors from the 2016 proposed rule. However, in our view that modification did not go far enough. As we explained in our May 13, 2016 letter (Docket No. [EPA-HQ-OEM-2015-0725](#)), the chlor-alkali industry has experienced

consolidation over the last fifteen years; there are few individuals qualified to provide a thorough third-party audit. We suggest that some statement should be signed by the auditor disavowing any current conflict of interest and outlining ethical obligations of the auditor would be appropriate. Our major concern is as currently written the regulation could limit use of the most knowledgeable and qualified people to perform the audits.

Third Party Audits Already Required in Voluntary Programs

(Section IV.A.2.c.iii. of the Proposed Rule)

Third party audits are a cornerstone of many voluntary programs, including OSHA's On-Site Consultation program, Responsible Care[®], and Responsible Distribution[®]. Any requirements for third-party audits should recognize third-party audit programs already in place and not necessitate regulated entities to duplicate efforts.

Safer Technologies and Alternative Analysis (STAA) Requirements

Submission of STAA findings (Section IV.A.2.a.ix of the Proposed Rule)

The Proposed Rule's STAA requirements do not acknowledge the value of the process hazard analysis (PHA) risk assessment function. STAA should be completed in the design phase of a process. The reasons different technologies are not implemented after a facility is already built are complex. Many CI members operate integrated facilities where a multitude of chemicals are produced. Changing one chemical production or storage capability could vastly impact the entire facility, and the facility's product output. Add to that the remaining life expectancy of operating equipment, capital expenditures, and market demands--switching from one technology to another becomes a decision to be weighed carefully. Any submitted STAA findings would probably not take into account the nuance of the real practicality of switching. Likewise, if facilities are not required to switch to alternate technologies, it is unclear how EPA intends to effectively use these data. For these reasons, CI members strongly oppose the submission of STAA findings.

Clearinghouse of Safer Technologies (Section IV.2.a.ix of the Proposed Rule)

The Institute does not believe a government clearinghouse of safer technologies would reduce chemical accidents. Each chemical process is highly complex and unique; it would be difficult to find value in a massive database of technologies. Additionally, the Institute has effectively created its own clearinghouse through the publication and maintenance of The Chlorine Institute publications² (which are available to download to members and nonmembers alike), semi-annual conferences, and regular member exchange forums. Member exchange forums provide professionals in the same industry the opportunity to meet face-to-face and ask each other how

² <https://Bookstore.ChlorineInstitute.org>

their respective organizations have increased safety through equipment changes, administrative controls, training and other means. Additionally, the Institute hosts a technology symposium every other year, where members can learn about new technologies, both from members sharing their experiences and directly from vendors and consultants. As mentioned previously, the Institute represents the majority of chlorine production capacity in North America.

Natural Hazards and Power Loss

(Section IV.A.1.b. of the Proposed Rule)

Electricity is a vital raw material to produce chlorine in the vast majority of chlorine production facilities within the U.S. Chlorine users also use electricity to run vital processes, including to power safety and monitoring equipment. As a part of the process hazard analysis (PHA), loss of power is a commonly analyzed scenario in the chlor-alkali sector. Similarly, geographically specific natural hazards are also analyzed during the PHA process and precautions are a part of normal operations (e.g., hurricane preparation, winterizing facilities, heat management, etc.). CI has concerns that adding a requirement to analyze future climate risks will be difficult without detailed, geographically specific predictions of future risks made available to facilities.

Thank you for the opportunity to comment on this proposed rule and your careful attention.

Best Regards,

A handwritten signature in blue ink that reads "Robyn Brooks". The signature is written in a cursive, flowing style.

Robyn Brooks

Vice President - Health, Environment, Safety and Security