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Chemical Safety and Hazard Investigation Board
1750 Pennsylvania Ave. NW
Suite 910
Washington, DC 20006

January 13, 2020

RE: Accidental Release Reporting, Docket Number: [CSB-2019-0004](#)

Dear Sir or Madam:

The Chlorine Institute (“CI” or “Institute”) is a 190-member, not-for-profit trade association of chlor-alkali producers worldwide, as well as chlorine packagers, distributors, users, and suppliers. CI exists to support the chlor-alkali industry in advancing safe, secure, environmentally compatible, and sustainable production, distribution and use of its mission chemicals¹. The Institute’s members account for approximately 91 percent of the total chlorine production capacity in the U.S. The Institute’s mission chemicals are used throughout the U.S. economy and are key to the protection of public health.

CI deeply appreciates the work of the Chemical Safety and Hazard Investigation Board (“CSB”). CSB’s materials are frequently propagated to CI members and have even been incorporated (with permission) into CI’s own safety guidance documents. CSB does important work and its reports and other publications are both broad enough to learn how common management structures can be improved and specific enough to address the particular hazards of each incident it investigates. CSB has successfully identified incidents to investigate and CI looks to CSB as a partner with our shared vision of working toward zero chemical releases. With reference to the December 12, 2019 Federal Register Notice “Accidental Release Reporting” (referred to as “The Rule”; [84 FR 67899](#)), CI:

- Applauds the proposal to provide CSB the corresponding National Response Center (“NRC”) report number to avoid the duplication of efforts;
- Recommends a narrower definition of serious injuries;
- Recommends the removal of the substantial property damage reporting trigger;
- Recommends a longer reporting window; and
- Requests clarity on the evacuation definition and reporting threshold.

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

Use of Existing Reporting Channels and Ability to Update

The Rule stipulates two reporting options – sending CSB the National Response Center (“NRC”) report number or sending pertinent details of the incident in an email. CI appreciates CSB’s option to simply send the NRC report number because this is a tool already in use by the chlor-alkali industry and will require minimal training. The other option, providing the information by email, is also favorable because submissions may be made from mobile devices and does not require the additional cost of installing new software or training.

CI is also in favor of the reporting amendment provision. During an incident, early information is often incomplete or inaccurate. The 30-day revision provision and easy process to supplement an initial submission will help CSB to achieve its goal of timely reporting and not be overly burdensome for facility owner/operators.

Overly Broad Injury Definition

The Rule broadly defines “serious injuries” and CI is concerned the definition will necessitate reporting of incidents where precautionary treatment is administered in the absence of actual symptoms. The reporting of incidents may satisfy the vision of the Government Accountability Office (“GAO”) to “identify trends” (See “Chemical Safety Board: Improvements in Management Oversight Are Needed,” GAO-08-864R, August 22, 2008), but seems to fall outside the narrow scope CSB has for The Rule, “to promptly report an accidental release” worthy of CSB’s time and resources to decide if a deployment is needed. The CSB has published many investigative reports where the human and environmental impacts have ranged significantly in terms of the number of individuals affected and the size of the surrounding area affected. The common thread is that CSB will often investigate and address deficient management systems. CI suggests the reporting criteria better align with internal criteria CSB uses to deploy investigative teams. CI is concerned that there will be false alarms from a low reporting threshold which may lead to a subsequent investigation of minor incidents due to the broad serious injury definition. For example, if there is a small chemical release at a remote facility with an operational crew of a dozen people and one person is exposed, triggering an irritant-induced asthma attack that is quickly remedied with a previously proscribed personal inhaler, that would be reportable under the current Rule. Would CSB send a team to investigate such an incident? If not, the reporting threshold should be adjusted to screen out such incidents. To remedy this issue, CI recommends “medical treatment beyond first aid” and “any injury or illness...” bullets should be removed in the proposed § 1604.2.

Insufficient Reporting Time Window

CI appreciates the difficult balance CSB is striking between allowing facilities to respond to emergencies and complying with reporting windows during emergencies. Four hours to make the necessary notifications, however, seems too short. For smaller locations, emergency communications to mobilize responders and make mandated reports are often manual and rely on one or a very few individuals who juggle multiple roles within their organizations. These individuals may work at facilities that are

unstaffed during certain hours like weekends and holidays; where a release may occur in an enclosed area and not be discovered for an extended period of time.

Another example is when a person is exposed to *Chemical X* from an accidental release while on-site, then either that person refuses medical treatment or does not report the incident. Later that individual decides to go to a physician and then receives a prescription for treatment due to the exposure. The site may not be aware of the doctor's visit until after the initial four-hour period expires. This scenario would appear to be a non-compliance issue based on the proposed rule. CI recommends the reporting window be increased to twelve hours from the proposed four hours. Recognizing that part of the reason CSB identified a four-hour reporting period was to ensure that the agency would have sufficient time to deploy an investigative team. Providing this additional time would allow companies to gather the pertinent information and better inform CSB of the type of investigation that may be required thereby enabling better identification of the resources needed to meet the agency's obligations.

Property Damage Assessments

One of the reporting triggers in the Rule is "substantial property damage," defined as "estimated property damage at or outside the stationary source equal to or greater than \$1,000,000." CI is concerned that some personnel, especially those covering for normally-scheduled employees may not be able to accurately estimate property damage. Those working at the facility may not have been involved in the procurement process of equipment they work with on a daily basis. CI recommends the value of the property damage be excluded from initial reporting.

Clarity on Evacuation Definition and Reporting Threshold

The proposed 40 CFR §1604.4(l)(1)-(3) requires the owner/operator to report whether the accidental release resulted in an "evacuation order" that impacts the "general public and others," and includes the "number of people evacuated" and "the type of individuals subject to the evacuation order (i.e., employees, members of the general public, or both)." CSB defines "general public" to exclude employees and contractors in the proposed 40 CFR §1604.2.

However, within the proposed 40 CFR §1604.4(l)(1)-(3), CSB is using multiple terms to define people who may have been "evacuated" (e.g., general public, others, people, individuals). When coupled with the proposed definition of "ambient air," which includes both inside or outside a facility's operation, there is the potential to incorrectly count (i.e. "double-count") the number of individuals required to evacuate. Specifically, the ambiguous terms of "others, people, individuals" could mean that employees and contractors should be included in the count in conflict with the definitions in §1604.2. CI requests additional clarity on counting the number of evacuees.

Additionally, the term evacuation should be defined in the Rule. Does it include people ordered to shelter-in-place or those restricted entry due to road closures? An explicit definition will assist both CSB and the reporting entity in clearer communication.

The Chlorine Institute greatly values the work of the CSB and looks forward to its future publications. Thank you for your attention and the opportunity to comment on The Rule.

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