



March 31, 2014

Via e-filing on www.regulations.gov

OSHA Docket Office
Docket No. OSHA-2013-0026
Technical Data Center, Room N-2625
OSHA - U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

RE: Docket No. OSHA-2013-0026

Dear Docket Clerk:

On January 3, 2014, in response to Executive Order 13650, the multi-agency Working Group established by Executive Order 13650 (EO Working Group) published a list of options relating to Section 6(a) of the Executive Order for improving chemical facility safety and security. This option list was intended to solicit input from stakeholders and gather additional information necessary for the EO Working Group to further evaluate, refine, and supplement these initial options.

The Gas Processors Association (GPA) is a trade association representing companies engaged in gas gathering and processing. GPA member-companies fully share the EO Working Group's commitment to workplace safety and support its efforts to identify improvements to chemical facility safety and security.

In the Section 6(a) option document, the EO Working Group requested comments on the options document and Section 6 of Executive Order 13650. GPA is providing responses to certain options applicable to our member's activities and operations.

2. Process Safety Improvement and Modernization

I. Policy, Regulatory, or Guidance Options by the Agencies

- a. Should EPA and OSHA modernize, clarify, and harmonize the PSM and RMP programs through rulemaking, policy change, or guidance development? If so, please provide specific suggestions.**

While the Process Safety Management (PSM) standard and Risk Management Plan (RMP) rule share common verbiage, these two regulations have different purposes and goals and the EO Working Group should not view them as being the same. The

current PSM standard and RMP rule adequately cover the risks associated with gas processing and the midstream industry in general. In addition, the existing PSM standard and RMP regulations have been effective in preventing catastrophic releases at subject midstream facilities since inception. The GPA, in support of gas processing risk mitigation, supports the enforcement of the current PSM and RMP programs rather than revising the rules to include additional coverage or modernization of these regulations for the midstream industry. However, GPA supports OSHA and EPA using the rule-making process to make any updates to the PSM and RMP rules in the event changes are needed. In addition, GPA supports soliciting input from the regulated entities on enforcement policy and interpretation changes.

- e. Should EPA, OSHA, and PHMSA initiate rulemaking, policy changes, or guidance to account for human factors in process safety, management of change, facility operating procedures, incident investigation, training, process hazard analysis, and other elements? If so, please provide specific recommendations on how the agencies should better address these?**

The current facility safety and security regulations applicable to the midstream industry are sufficient and further rulemaking is not necessary. Human factor considerations are already part of OSHA's PSM and EPA's RMP Process Hazard Analysis (PHA) requirements as well as PHMSA's Control Room Management (CRM) requirements. Incorporating human factors into additional areas of these regulations would be difficult because of the differing objectives and goals of these regulations. GPA supports the performance-based compliance aspect of these regulations because it provides subject facilities with the flexibility to incorporate human factor considerations as appropriate for the size and complexity of the site. In addition, this flexibility also encourages innovation in how companies incorporate human factor considerations. The GPA recommends the EO Working Group consider clarifying existing human factor requirements in the PSM, RMP, and PHM CRM rules rather than expand the requirements.

- f. Should EPA, OSHA, and PHMSA initiate rulemaking, policy changes, or guidance to use existing leading and lagging indicators to better evaluate performance over time? If so, please provide recommendations on how the agencies may address this and what indicators are most meaningful.**

EPA, OSHA, and PHMSA should not require leading and lagging indicators but rather leave the decision on selecting and tracking indicators to each regulated facility. The focus and goals of these agencies differ significantly as well as the types of operations and equipment that are covered by their regulations. Requiring specific indicators could cause overlapping or conflicting information to be tracked by regulated entities. The GPA supports allowing midstream companies to utilize leading and lagging process safety performance indicators that are appropriate for their particular process safety, risk management, and pipeline safety programs. In addition, requiring specific indicators could diminish the value gained by allowing companies using facility-specific indicators to gauge the performance of their safety and security program. Specifying performance indicators would be a one-size-fits-all approach that does not account for the variability of covered facilities and company-specific programs.

g. Would it be beneficial for the agencies to develop and publish guidance for employers or operators on conducting root-cause analysis following significant incidents or releases?

GPA does not support the agencies publishing prescriptive guidance for employers/operators on conducting root-cause analysis (RCA). Existing regulations require that incidents be thoroughly investigated, which typically includes performing an RCA. A requirement to perform an RCA on significant incidents should follow the rule-making process rather than publishing a guidance document. GPA member companies currently use various methodologies (e.g. brittle fracture analysis, metal fatigue analysis, etc.) to thoroughly investigate a broad range of incidents. Covered facilities currently use sufficient and recognized investigative methodologies and technologies that are appropriate for the type and severity of the incident being studied. Publishing specific RCA guidance could diminish an organization's ability to use best practices to investigate incidents and determine causal factors. In addition, defining significant incidents would be difficult considering the broad number of covered processes in different industries. The GPA further points out that an unintended consequence of requiring RCA on significant incidents could encourage companies to merely investigate the more severe incidents and not conduct RCA on less significant incidents or near misses.

i. How should EPA, OSHA, PHMSA and USCG harmonize and standardize terminology in order to clarify requirements and definitions across multiple jurisdictions?

GPA supports these agencies in reviewing their differing standards, terms, and definitions and harmonizing these to provide clarity to regulated businesses in developing and implementing their compliance programs. Rather than listing specific items in this response letter, GPA recommends the agencies commission a work group that includes agency and industry representatives to collaborate on harmonizing and standardizing the differing terminology.

j. Should inspector and compliance officer training be expanded to include best practices and to improve process safety beyond regulatory requirements?

GPA does not support changing inspector and compliance officer training to include "best practices" and improvements "beyond regulatory requirements." GPA supports the agencies improving training for inspectors and compliance officers on existing requirements that have followed the rule-making process. We believe improved training would enhance inspector knowledge of the regulatory requirements, minimize potential agency overlap (or over reach), and provide consistent enforcement of covered facilities. However, the focus of inspections should be on evaluating a subject facility's compliance with existing regulatory requirements and not "beyond [the] regulatory requirements." Including best practices during inspections could lead to new requirements and expectations for compliance that have not followed the formal rule-making process. The role of federal agencies should be limited to regulatory oversight as opposed to prescribing the manner in which companies protect their employees and operate their covered facilities.

I. Should EPA, OSHA and PHMSA evaluate the implementation of a “safety case” regulatory model to reduce risks in complex industrial processes as low as reasonably practicable?

GPA does not support evaluating the implementation of a “safety case” regulatory model for midstream facilities. The safety case model is a significant departure from the current regulatory model. GPA believes a standardized risk standard must be established prior to developing the framework for the safety case model. We believe the current PSM, RMP, and PHMSA pipeline safety programs are sufficient to protect worker safety and surrounding communities. While implementing a safety case model could potentially provide covered facilities with operational flexibility, it would increase the paperwork and reporting burden of covered facilities but would not necessarily reduce risks to employees or the surrounding community.

II. Options for Collaborating with Private Organizations on External Standards

p. What opportunities exist for EPA, OSHA, and NPPD to work with industry associations to leverage industry programs and improve process safety and security through the industry programs and consensus standards, and encourage best practices, as well as to improve regulatory efficiency, especially for small businesses?

GPA supports the agencies attending industry trade conferences to increase their employee knowledge of industry initiatives and work practices. In addition, opportunities currently exist for these agencies to participate on standards committees and GPA supports the agencies’ participation.

6. Oil and Gas Facilities Options:

b. Should EPA modify the RMP regulation to cover upstream oil and gas production facilities?

The GPA opposes any changes to the section § 68.115(b)(2)(iii) exemption for upstream oil and gas production facilities. The GPA agrees with EPA’s position when the exemption was promulgated as noted in the proposed rulemaking document found in the April 15, 1996, Federal Register notice and provided here for your information:

The American Petroleum Institute (API) evaluated the potential consequences of releases of naturally occurring hydrocarbon mixtures at oil and gas exploration and production facilities, as discussed in the Hazard Assessment of Exploration and Production Facilities Potentially Subject to the Environmental Protection Agency’s Risk Management Program Regulations (January 20, 1995) (see docket), and concluded that hazard distances were generally very short for the types of facilities evaluated. Finally, EPA believes these explicit, specific, and clear exemptions for gasoline and naturally occurring hydrocarbons are useful in addition to revising the flammable mixture

provision to better reflect NFPA 4, because they simplify the task of applying the judgmental criteria of NFPA 4 for these pervasive mixtures.

Lastly, the GPA also opposes EPA extending part 68 coverage to additional upstream oil and gas facilities. Enforcing current regulations would be appropriate and would continue to assure the protection of the public and the environment.

c. What would be the economic impact of OSHA resuming PSM enforcement for oil and gas production facilities?

GPA member companies feel that additional compliance and enforcement costs would be significant and burdensome. There are potentially thousands of additional facilities that could become subject to PSM depending on how OSHA defines a production operation facility. This could result in substantial costs and have adverse cost/pricing consequences to downstream and end users of the economy with negative effects. Additionally OSHA would have to increase compliance and enforcement personnel and activities proportionate to the increase in covered facilities.

7. Coverage of Bulk Storage of Flammable Liquids under Process Safety and Security Regulations Options:

b. Should OSHA clarify the PSM standard's exemption, through regulation, for atmospheric storage tanks, and, if so, what should the exemption cover?

Many GPA member companies operate PSM-covered processes. The existing covered processes are typically based on exceeding the threshold quantity for highly hazardous chemicals (HHC) without regard to the quantities in atmospheric storage tanks. The GPA supports the continued exemption of atmospheric storage tanks from the overall covered process threshold quantity calculation. Atmospheric storage tanks containing flammable products with a flash point below 100°F and kept below their normal boiling point without the benefit of chilling or refrigeration do not present a risk of catastrophic failure or release. Flammable liquid storage is already subject to other regulations such as § 1910.106, SPCC, state and local storage requirements, and various safe work practices. GPA believes these existing regulations and work practices have been effective in preventing catastrophic releases and protecting employees and contractor safety.

In addition, including atmospheric storage tanks as part of the PSM-covered process would provide minimal safety improvement or risk reduction in comparison to the increased compliance costs.

9. Identifying Facilities Covered under Existing Process Safety and Security Regulations

- a. Should facilities covered under PSM but not RMP be required to register under the RMP reporting system?**

GPA does not support using a different regulatory system to register PSM facilities with EPA. Requiring registration is a substantial change to OSHA's current enforcement policy and would require a regulatory change made through rule-making process.

Thank you for the opportunity to comment on these possible options developed by the EO Working Group.

Respectfully Submitted,



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Sr. VP and Corporate Secretary
Gas Processors Association