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OSHA Docket Office
Docket No. OSHA-2013-0020
Room N-2625
Technical Data Center
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue. NW
Washington, DC 20210

Re: Request for Information – Process
Safety Management and Prevention of
Major Chemical Accidents

Dear Sir/Madam:

ORCHSE Strategies, LLC (ORCHSE) welcomes this opportunity to comment on the Occupational Safety and Health Administration's (OSHA) December 9, 2013, Federal Register notice seeking comments and information on its Request for Information on Process Safety Management and Prevention of Major Chemical Accidents, 78 FR 73756.

ORCHSE became an independent enterprise on January 1, 2014. As the successor to ORC Worldwide and Mercer HSE Networks, ORCHSE has provided a wide array of specialized occupational safety, health services to global businesses for more than 40 years. Currently, more than 130 large (mostly Fortune 500) companies in diverse industries are members of ORCHSE's Occupational Safety and Health Networks. The focus of these groups is to promote effective occupational safety and health programs and practices, to facilitate constructive communications between business and government agencies responsible for establishing national occupational safety and health policy, and to advocate responsible business positions on agency rulemaking. The activities of ORCHSE's Occupational Safety and Health Networks are based on the premise that providing safe and healthful working conditions is the mutual concern of employers, employees and government agencies.

It should be noted that companies that are members of ORCHSE's Occupational Safety and Health Networks have provided substantial information, opinion and advice to ORCHSE in

the development of its comments. However, the following comments are solely those of ORCHSE and may differ from the views and comments of individual member companies.

Background

It is well known that ORCHSE's predecessor organization, ORC Worldwide, was one of the key contributors to and supporters of the development of the original OSHA Process Safety Management (PSM) Standard. In fact, in 1988, ORC provided OSHA with a draft document that formed the foundation for the OSHA Proposed Standard, encouraging OSHA to adopt many of the key features that were ultimately incorporated into the final standard. ORCHSE continues to believe that OSHA's PSM standard is among the agency's most important standards in terms of providing affected industries with the necessary processes and tools to reduce the risks of chemical accidents and resulting worker injuries and deaths.

ORCHSE appreciates the circumstances under which OSHA has undertaken this pre-rulemaking initiative to examine various aspects of the PSM standard. Not unlike many standards-setting activities pursued by the agency over the years, this Request for Information (RFI) arose out of a high-profile incident, in this case the April 17, 2013 ammonium nitrate explosion at the West Fertilizer storage and distribution facility in West, Texas. This incident illuminated potential gaps in worker and public safety, as well as in environmental and national security protections, and resulted in the issuance of Executive Order 13650, directing OSHA in Section 6 to "issue a Request for Information designed to identify issues related to the modernization of the PSM Standard and related standards necessary to meet the goal of preventing major Chemical accidents."

General Comments

OSHA's PSM standard is unique in several important respects. First, it is at its core a "management systems" standard, designed to eliminate hazards and reduce risks that can contribute to catastrophic accidents through an ongoing cycle of hazard and risk identification, risk assessment, hazard elimination and risk reduction, inspections and auditing and process improvement. It is also a performance-based standard, not relying on prescriptive mandates for addressing specific hazards, but rather on rigorous adherence to the implementation of the management system to identify and reduce risk to workers. Finally, as now famously portrayed the January 2007 Report of The BP U.S Refineries Independent Safety Review Panel (*Baker Report*), OSHA's PSM standard focuses on "process safety", directed toward the overall mitigation of risks associated with the unintentional releases of

“dangerous materials or energy from [chemical] processes.” In contrast, the more typical OSHA standard focuses on “personal safety”, i.e., hazards that “are more directly related to individual workers,” typically addressing risks that are associated with various “specific types of physical injuries.” *Baker Report*, p. 21.

ORCHSE strongly believes that this unique combination of attributes has made and continues to make the existing PSM standard a highly effective regulatory framework for protecting workers from the risks of catastrophic chemical releases. In particular, the fact that it is both a management systems standard and a performance standard make it far more adaptable to improvements in effective practices than the vast majority of often far “older”, out of date OSHA standards. In terms of the potential need to “modernize” the PSM standard, ORCHSE believes that OSHA might more productively devote its extremely limited resources to improving the protections of some of these latter standards than the PSM standard.

In the RFI, OSHA references a handful of high-profile incidents and points to reports or findings by the investigating bodies of two or three of those incidents that suggest that certain revisions to the PSM standard might have helped avoid the incidents. Those are certainly facts and circumstances worth considering. However, in ORCHSE’s view, as suggested above, experience has demonstrated that the PSM standard is fundamentally sound and that the ultimate goal of preventing all catastrophic chemical process incidents can be best served by assisting covered employers in properly executing the elements of the standard rather than by focusing on making changes to the standard itself. Recognizing that effective enforcement of the standard is a necessary element of assuring compliance, OSHA must continue its efforts to assure that it has a sufficient cadre of CSHOs who have the kind of in-depth training and experience necessary to understand the complexities of chemical processes and to recognize the risks associated with their operation. ORCHSE has heard repeatedly from its member companies that there are still too few CSHOs outside of Region VII that have the requisite knowledge.

It is universally recognized that virtually all catastrophic chemical process incidents over the past 20 years have had far less to do with gaps in the PSM standard than with failures of execution of both the mandates of the standard and of critical aspects of effective process safety management. And these failures, in turn, were frequently related to even more fundamental management and systemic issues such as failures of management commitment and leadership, failures of safety culture at the facility and enterprise levels, failures of worker knowledge and participation, failures in allocating adequate resources to process safety efforts and failures to follow up on inspection and audit findings in a timely and

effective manner. New or revised regulatory mandates will not address these kinds of fundamental issues.

The RFI's Specific Topic Areas

In the RFI, OSHA identifies and briefly describes 17 topic areas for potential rulemaking, policy, interpretive and other action. It then poses 85 questions related to those topic areas for consideration by commenters. OSHA does not attempt to prioritize this very diverse group of “potential candidates for rulemaking or enforcement policy change” or otherwise evaluate their prospective significance in terms of the level of potential enhancement of safety protection that might result from their adoption or implementation.

ORCHSE will address below those particular topic areas that are of the greatest concern to, and have the greatest impact on, ORCHSE member companies. ORCHSE addresses the topics in the order listed in the RFI.

Topic 1. Clarifying the PSM Exemption for Atmospheric Storage Tanks

In 1997, based on an administrative law judge opinion, OSHA withdrew its interpretation of section (a)(1)(ii)(B) of the PSM standard that the standard covered all stored flammables when they are “connected to, or in close proximity to, a process.” In the RFI, OSHA expresses its view that the standard should be revised to “include flammable liquids in atmospheric storage tanks *within or connected to* a PSM-covered process.” Emphasis supplied.

First, ORCHSE believes that OSHA’s original conclusion in the promulgation of the PSM standard that the flammable liquids stored as described in the exemption do not “have the same potential for a catastrophe as those proposed” to be covered continues to be valid. In addition, OSHA correctly pointed out in the preamble to the PSM standard that “an OSHA standard already regulates the treatment of the exempted flammable liquids (1910.106, flammable and combustible liquids).”

Nonetheless, ORCHSE member companies generally indicate that with respect to flammable liquids in atmospheric storage tanks that meet the criteria of paragraph (a)(1)(ii)(B) but that are connected in a meaningful way to, or are in close proximity to, a process involving a flammable liquid or gas in such a manner that the stored flammable liquid has the potential to become involved in a catastrophic incident arising out of the process, they consider the

volume of the stored liquid in their calculation of the threshold quantity to determine PSM coverage.

If OSHA does decide to act on this issue, there should be ample opportunity to gather and consider public comment on 1) what constitutes “connection” to a process and 2) what “within” or “in close proximity to” is intended to mean. These are both areas of some confusion. Additional non-regulatory guidance for clarifying both terms may be useful, emphasizing that “connection” is associated primarily with fixed piping and that there are modeling tools available to assess the level of risk based on proximity. Also, OSHA should endeavor to clarify the relationship between the coverage of the PSM standard and 29 CFR 1910.106.

In general, however, the exemption should continue to apply, at a minimum, to petrochemical terminals and tank farms in remote, unoccupied locations.

Topic 4. Expanding PSM Coverage and Requirements for Reactivity Hazards

In its RFI, OSHA states that it “has long been aware of the need to update the PSM standard to address hazards associated with reactive chemicals” and notes its own previous intentions to issue an advance notice of proposed rulemaking on the subject. OSHA also recognizes the fact that the Chemical Safety Board (CSB) has “made a number of recommendations to OSHA on how the PSM standard could be amended to more comprehensively control reactive hazards.” OSHA specifically references the approach used in the New Jersey Toxic Catastrophic Prevention Act of 1986, which provides lists of reactive and potentially reactive chemicals, and NFPA 400 as possible approaches for incorporation into its PSM standard.

Among ORCHSE member companies with operations covered by the PSM standard, there is general agreement that the reactivity of chemicals and its potential to contribute to catastrophic consequences should be elements of PSM coverage. However, there is little level of agreement on how the PSM standard could be amended to achieve this coverage. ORCHSE companies currently apply a variety of existing and emerging lists, tests and protocols when assessing potential significant reactivity hazards. NFPA 400 is among those approaches used, but not surprisingly, there is no agreement on a “one-size-fits-all” solution.

However, there does seem to be general agreement among many ORCHSE members that the guidance tools developed by the Center for Chemical Process Safety (CCPS), including those developed in cooperation with government and industry (Essential Practices for Managing

Chemical Reactivity Hazards), are valuable, in the words of the CCPS guide, in helping “companies address safe handling, processing, and storing of chemicals that might become involved in uncontrolled chemical reactions.” While these tools and references are certainly not suitable for adoption as regulatory “requirements”, incorporating them and other guidance into non-mandatory appendixes may be a useful approach to this issue.

From a regulatory standpoint, it does not appear likely that OSHA will be able to develop its own “specifications” to address this issue, either from the perspective of establishing or adopting a comprehensive list of reactive chemicals or of establishing or adopting a universally suitable process for evaluating reactivity thresholds for coverage.

It is also worth noting that the Process Safety Information requirement of the standard already requires employers to understand a variety of factors relevant to the reactive chemistry of a process, e.g., 29 CFR 1910.119(d)(1)(iv); (d)(2)(i)(D); (d)(3)(i)(G).

Topic 5. Updating the List of Highly Hazardous Chemicals in Appendix A

From ORCHSE’s perspective, OSHA simply has not provided a sufficient description or discussion of the potential need for or utility of updating Appendix A. To the contrary, as OSHA points out, the existing list of chemicals in Appendix A was derived from a broad range of comprehensive and well-established sources. There is no suggestion in OSHA’s RFI of any significant deficiency and ORCHSE members believe strongly that “tinkering” with the list may not add value to the effectiveness of the PSM standard. It will never be possible to develop a definitive list of “highly hazardous chemicals” and in the absence of a credible indication that important chemicals are “missing”, OSHA should not devote its resources to addressing this topic. However, this may also be a suitable subject for providing non-mandatory references for companies to consider if they deem it appropriate to evaluate chemicals beyond those listed.

Topic 6. Revising the PSM Standard to Require Additional Management System Elements

In its RFI, OSHA points out that at the time the PSM standard was issued more than 20 years ago, the standard incorporated industry effective practices applicable at the time, but suggests that since that time, additional management system elements “may now be recognized to be necessary to protect workers.” OSHA seeks comment on which, if any such additional elements, “would increase worker protection” if included in the standard.

ORCHSE believes that this issue is worth exploring, but that it also poses serious challenges for OSHA in terms of meeting its obligation of demonstrating which, if any, additional elements are, in fact, “necessary” or would significantly reduce risk to workers.

OSHA correctly points to the 20 elements of the CCPS Risk Based Process Safety (RBPS) system as reflective of the most current collective thinking about what constitutes process safety management excellence from a systems perspective. Many ORCHSE member companies find the CCPS guidelines a valuable source of information and advice for supplementing their own process safety programs. However, there is no consensus whatsoever as to which particular CCPS elements do or would result in a significant improvement in process safety management system performance, however one might define such performance improvement.

For OSHA to be able to justify adding a new system element to the standard, it would be necessary to demonstrate that a significant reduction in risk can be associated with that element. It is ORCHSE’s experience that there is an unfortunate lack of reliable empirical evidence to demonstrate a nexus between any particular element of a management system and the reduction of risk. This is yet another area where OSHA should be cautious about developing new mandates in the absence of substantial evidence of a gap in protection.

However, if after its review of the record in response to this RFI, OSHA determines that requiring additional management system elements in the PSM standard may be appropriate, ORCHSE suggests that it begin with an element that is has long been considered one of the essential underpinnings of an effective management system, but that is not explicitly addressed in the PSM standard – periodic Management Review.

The “plan-do-check-act” cycle that underlies all management systems is designed in virtually all of its elements to foster and support continual performance improvement to some extent. In the context of worker safety and health management systems, including process safety management, the overarching goal is for the system to operate in a manner that achieves continuous progress in reducing risk. One management system element that is included in the CCPS RBPS program, as well as ANSI Z10 and other ANSI standards, is Management Review, involving a regular senior management level review of the entire system and all of its elements in order for enterprise leaders to perform a strategic and analytical review of the functioning of the system, the results achieved and opportunities for continuous improvement.

Such periodic “top-level” review assures, at least in some measure, that company leadership is “invested” in the ongoing progress and success of process safety management in the enterprise, an element that the Baker Report considered essential under the rubric of “Process Safety Leadership.” The Report noted that “leadership [must] set the process safety ‘tone at the top’ of the organization and establish appropriate expectations regarding process safety performance,” *Baker Report, Recommendation #1*. A periodic Management Review provision could help facilitate that goal.

Topic 7. Amending Paragraph (d) of the PSM Standard to Require Evaluation of Updates to Applicable RAGAGEP

ORCHSE member companies do make reasonable efforts to review from time to time critical updates to those standards, guidelines and practices that they consider to affect their industries and operations most directly. However, ORCHSE opposes adding such an “evaluation” requirement to the PSM standard. ORCHSE member companies are universal in their concern that imposing such a broad “evaluation” requirement would create a substantial incremental burden even on large companies with expertise and resources devoted to PSM, and would be unlikely to result in significant reductions in risk. First, as one ORCHSE member put it, there is a “huge universe” of codes and guidelines that could in some fashion be applicable and, as OSHA points out, “practices constituting RAGAGEP under the PSM standard are constantly changing” It is simply infeasible to require such constant monitoring and “evaluation” of updates.

ORCHSE’s concern is frankly compounded by the great skepticism in much of industry, borne of its experience with OSHA PSM enforcement practices, about OSHA’s ability or inclination to adhere to a judicious interpretation of an “evaluation of update” requirement and not turn it into an “implementation of update” requirement. What would the consequences be to an employer that, in fact, had a process for identifying and evaluating updates and that, in fact, undertook reasonable efforts to perform such an “evaluation”, but that simply missed one that an OSHA CSHO identifies as one the employer “should have” evaluated? Or what happens when the employer does “evaluate” an update to one of the myriad potentially applicable RAGAGEP, but has either decided not to, or been unable to, implement the updated RAGAGEP the day the CSHO makes an appearance?

In this context, it is critical to acknowledge that the existence of an “updated RAGAGEP” does not equate to a presumption of increased protection – it is often the case that adherence to the original practices is often the most prudent and protective course of action. There

should not be a presumption that the existence of an “update” equates to improved protection.

If OSHA decides to pursue this issue in future rulemaking, ORCHSE strongly urges the agency to carefully circumscribe any update evaluation provision by 1) limiting it to requiring that an employer “have a process for evaluating updates” and 2) avoid creating an implicit obligation to identify and implement any particular update to a RAGAGEP that a CSHO or other OSHA official might deem relevant in the context of an OSHA inspection or investigation. If the employer has an update evaluation process in place and there is evidence that reviews of RAGAGEP that the employer deems applicable are, in fact, being performed from time to time, that should constitute compliance. OSHA must especially be mindful of the need to maintain the essential performance-based nature of the PSM standard and to resist adding provisions that undermine that critical attribute of the standard.

Topic 8. Clarifying the PSM Standard by Adding a Definition of RAGAGEP

ORCHSE has no objection to OSHA subjecting this topic to rulemaking. The fact that after more than 20 years of implementation of the PSM standard, there is still a level of uncertainty about the scope of the RAGAGEP, suggests that some clarification should be considered. However, at the end of the day, ORCHSE doubts that adding a definition to the standard would be the most useful course of action.

OSHA asks specifically about the CCPS “definition” of RAGAGEP in its *Guidelines for Mechanical Integrity Systems* and asks whether such a definition would “assist employers in complying” with the PSM standard. While ORCHSE has no particular objection to the CCPS formulation, which is really more of a general description than a true “definition”, we do not believe that it would achieve OSHA’s stated objective of assisting employers in complying. This is another area where the greatest service OSHA could provide may be additional guidance, references and tools in a non-mandatory context, in order to assist employers and workers better understand and have better access to the information necessary to apply relevant good engineering practices.

Topic 9. Expanding the Scope of Paragraph (j) of the PSM Standard to Cover the Mechanical Integrity of Any Safety-Critical Equipment

While the topic heading, above, seems to suggest that OSHA is considering a mandate that employers include an undefined universe of “any safety-critical equipment” in their PSM

program, the last paragraph of the discussion at 78 FR 73761 seems to limit the potential coverage to “all equipment *the employer identifies* as critical” in addition to the equipment currently listed in the standard. Emphasis added. This would supposedly allow the employer, rather than OSHA, to conclusively determine what additional equipment not included in the current standard would be “safety-critical” and covered. This seems like an approach worth considering, although it is not clear (like much in this section) whether there would be some implicit mandate under such provision for an employer to evaluate proactively all equipment that might be a candidate for the “safety-critical” designation.

Topic 10. Clarifying Paragraph (l) of the PSM Standard With an Explicit Requirement That Employers Manage Organizational Change

ORCHSE doubts whether at this point in time a change to the PSM standard itself is necessary or appropriate. In fact, OSHA’s own discussion of the subject in the RFI effectively makes the case that no change is necessary. There is ample “water under the bridge” on the underlying issue of whether some types of “organizational changes” should be considered covered by Paragraph (l) of the standard. Longstanding OSHA policy, as well as the lessons from significant process failures, has served to sufficiently reinforce the need to include certain organizational changes in an employer’s procedures to evaluate and manage PSM-related changes. ORCHSE member companies with PSM-covered processes understand both the OSHA position and the real-world risks of failing to take into account organizational changes that could adversely affect the safe operation of their process and the effectiveness of their PSM programs.

ORCHSE would like to use this topic area as a good illustration of an administrative and policy issue that ORCHSE and its predecessor organizations have been raising with OSHA for many years, with admittedly limited success. That issue is the need for OSHA to be more transparent and inclusive in its development of significant policy, guidance and interpretive publications, especially with regard to the implementation of agency standards.

This administration, in particular, has embraced a more transparent posture in a number of its initiatives and ORCHSE applauds that shift. However, when it comes to the critical area of the issuance of compliance directives and interpretations, in particular, OSHA continues to “look inward” rather than to reach outward to external stakeholders, who could provide valuable input into many of these documents and who could, in turn, help make the ultimate products more credible and effective. The issue of the inclusion of organizational change in management of change and the March 2009 Memorandum for Regional Administrators

interpreting the PSM standard to do so, is a perfect example of an issue that would have been ideal for stakeholder input into this important policy and compliance determination. ORCHSE would like to take this opportunity to strongly encourage OSHA, once again, to itself develop a process for including public participation in the development of significant standards-related publications.

Topic 12. Revising Paragraph (o) of the PSM Standard to Require Third-Party Compliance Audits

Of all of the PSM topic areas raised by OSHA in its RFI, this is the subject that has created the most concern among ORCHSE member companies. After taking into account the many issues raised by our members related to this topic, ORCHSE opposes any requirement for third-party compliance audits under Paragraph (o). We are quick to add that there are certain circumstances in which the involvement of third-party auditors may be valuable – ORCHSE discusses some of those below – and there is also value in taking steps, as in any type of audit, to assure the objectivity (ORCHSE believes that “objectivity”, rather than “independence” is the critical issue) of a PSM audit. However, on balance, ORCHSE does not believe that any requirement for third-party audits in the PSM standard is justified, either on the basis of assuring more effective audits or of increasing worker protection.

Virtually all ORCHSE member companies have well-developed and rigorous auditing processes in place, not only with respect to compliance with the PSM standard, but for compliance with all government and internal company standards. These auditing processes require a significant dedication of resources to be effective and companies are heavily invested in assuring both valid results and effective corrective action.

In the vast experience of ORCHSE member companies in the auditing arena, the Number One consideration in effective auditing is whether the auditor, or more often, the auditing team, is knowledgeable about the process(es) being audited. There is a direct correlation between the level of knowledge about the process being audited and the efficiency, validity and usefulness of the audit result both in terms of producing in-depth findings of compliance deficiencies, and comprehensive recommendations for the most effective potential resolutions.

There are a number of concerns and limitations associated with any potential requirement for third-party auditors to conduct PSM audit. These range from the substantive to the logistical. First, as alluded to above, while third-party auditors may have at least the appearance of

“disinterest” or objectivity, it is the experience of ORCHSE members that their quality, i.e., the competence, experience and knowledge level of external auditors, is widely variable. Any trade-off of uncertainty about the qualifications and competence of an auditor in exchange for a measure of institutional independence would be a bad one, in ORCHSE’s view.

Just as troubling is that OSHA does not suggest how it would assure that an adequate pool of qualified and knowledgeable auditors would be available to meet the needs of industry. Would OSHA set standards for competency, skills and experience? Would it engage in an accreditation effort so that some level of standardization of competency levels would be assured and so that a sufficient cadre of qualified auditors would be developed? Or would OSHA rely on “third-party” accreditors to assure that auditors met minimum standards of knowledge and competency? It is the current experience of ORCHSE members that “accreditation” of auditors does not necessarily assure the skills and competencies necessary to perform an effective audit, although accreditation and adherence to a Code of Conduct should discourage auditors from accepting work outside their areas of competency.

Without a sufficient pool of experienced, knowledgeable and qualified auditors available to PSM-covered facilities throughout the country, any requirement for their use on an ongoing basis would likely be infeasible. The scheduling of audits requires substantial advance planning and coordination and it is ORCHSE’s opinion that the rational and timely scheduling and resourcing of PSM audits for ORCHSE member companies has the potential to become extremely unlikely in the face of anticipated shortages of qualified auditors.

Another concern mentioned by a few ORCHSE members was that third-party auditors, even those accredited by a State body, have on occasion been reluctant to “stand by” or sign off on audit findings and reports out of fear of insufficient liability protection. Factors such as these may make third-party auditors less willing than “second-party” auditors to make the “tough calls”, especially if they are not intimately familiar with the processes they are reviewing. In addition, in a perhaps not unrelated observation, ORCHSE members have found that third-party auditors, in general, are more likely than internal auditors to focus on “paperwork” and comparatively non-substantive deficiencies instead of focusing on more serious potential hazards and risks.

Notwithstanding the above concerns, ORCHSE readily acknowledges that objectivity is an important attribute of effective auditing. Auditing for compliance and management system performance, including PSM auditing, constitutes one of the most resource-intensive activities of our members. They understand the criticality of obtaining unbiased, valid and

actionable results. Most members assemble diverse auditing teams, generally led by, and primarily consisting of, knowledgeable company representative from facilities other than those being audited, thus significantly counteracting any unintentional “bias” that might otherwise be a concern if the auditing team consisted primarily of personnel from the facility being audited. The experience of ORCHSE member companies that this is an effective way to balance the primary need for knowledge of the process with a measure of objectivity.

ORCHSE also notes that as company policies regarding increased transparency become more prevalent, some ORCHSE member companies have begun pairing their internal audit teams with a third-party auditor in selective situations. This has the potential to both increase objectivity and assure adequate knowledge of the process being audited. This possible trend is a fairly recent development and at this point in time, there is little or no evidence whether such a collaboration enhances the quality of the ORCHSE member company audits or not.

ORCHSE wants to address briefly two of the questions raised by OSHA with respect to this topic that do not deal directly with the issue of third-party auditing. First, in response to Question 58, ORCHSE would not change the current 3-year audit frequency requirement. A more frequent auditing requirement would make it considerably more problematic for ORCHSE member companies to be able to schedule and conduct thorough process safety audits on all covered processes before the end of each cycle. As mentioned above, effective auditing is very resource-intensive and requires careful coordination of schedules. A more frequent auditing schedule could very well compromise rather than enhance worker safety.

Similarly, ORCHSE urges OSHA not to require employers to respond to deficiencies found during a PSM compliance audit “within certain timeframes” (Question 59). ORCHSE member companies strongly believe that the most important aspect of the auditing process is the “quality of the closure” or the effectiveness of the ultimate remedial action taken. That determination, including the timing of implementation, is primarily a risk-based determination. But factors of available resources, complexity of the actions required, and similar consideration, make the establishment of a specific regulatory timeframe for action inappropriate. It is worth noting that most ORCHSE members view the 3-year auditing cycle a de facto time limit for corrective action for all audit findings.

Conclusion

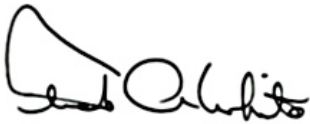
The PSM standard, originally proposed to OSHA by industry itself, has been central to efforts to reduce the risk of catastrophic chemical releases in the U.S. for more than 20 years.

ORCHSE strongly believes that this groundbreaking standard remains fundamentally sound, due in large measure to its unique attributes as a performance-based, management systems-focused standard.

While ORCHSE has suggested a few of the RFI's topic areas for possible regulatory action, we are convinced that broader efforts to "modernize" the standard are either not warranted to increase worker protection or can be best achieved through providing enhanced non-mandatory guidance and additional compliance assistance resources and support. The ultimate goal of preventing all catastrophic chemical process incidents can be best served, in ORCHSE's view, by redoubling OSHA's efforts to assure that covered employers are properly executing the elements of the standard rather than by focusing on making changes to the standard itself. Recognizing that effective enforcement of the standard is a necessary element of assuring compliance, OSHA must continue its efforts to assure that it has a sufficient cadre of CSHOs who have the kind of in-depth training and experience necessary to understand the complexities of chemical processes and to recognize the risks associated with their operation.

ORCHSE greatly appreciates the opportunity to comment on this RFI and looks forward to working closely with OSHA as it determines what further action may be warranted.

Sincerely,



Frank A. White
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