Executive Order 13650, Section 6(a) – Solicitation of Public Input on Options for Policy, Regulation, and Standards Modernization

Introduction and Purpose

In follow-up to the tragedy that struck West, Texas, in April, 2013, President Obama signed Executive Order 13650, Improving Chemical Facility Safety and Security, which established a working group of federal agencies. Section 6(a) of the Executive Order tasks the working group with considering options intended to improve and modernize key policies, regulations, and standards to enhance the safety and security of chemical facilities.

The working group includes representatives from the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA); U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); U.S. Department of Homeland Security, National Protection and Programs Directorate (NPPD), Transportation Security Administration (TSA), and U.S. Coast Guard (USCG); U.S. Department of Agriculture (USDA); U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA); and U.S. Environmental Protection Agency (EPA) (collectively, "we" or "the working group"). Based upon feedback that we have received, we developed a preliminary list of options for improving chemical facility safety and security for further discussion and comment. We set forth these options here and intend to engage stakeholders and collect public comments on these options, as well as any additional improvements to existing risk management practices that should be considered.

Within this document, we provide background on existing applicable regulations, as well as a summary of Section 6 of the Executive Order. After this summary, we present the preliminary list of discussion topics under Section 6(a) for improved chemical facility safety and security. The options and key questions identified by the working group resulted from review of existing programs, investigation of major incidents, review of recommendations from the safety and security communities, and feedback from the EO listening sessions. We are accepting comments on these options, which will inform a plan for implementing the practical and effective improvements to chemical risk management, for approximately 90 days. Consistent with the EO, the topics for discussion include, but are not limited to:

- options for improving the safe and secure storage, handling, and sale of ammonium nitrate (AN)
- options for expanding OSHA's Process Safety Management (PSM) standard and EPA's Risk Management Program (RMP) rule to address additional regulated substances and types of hazards
- options for adding chemicals to the Chemical Facility Anti-Terrorism Standards (CFATS) Chemicals of Interest (COI) list
- issues about which OSHA is seeking further comment through its request for information (RFI) on potential improvements to PSM and related standards, including a discussion concerning potential revisions to the PSM retail exemption and maximum commercial grade interpretation.

OSHA's RFI, as well as instructions for submitting comments, can be found at: https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents. For guidance purposes, Appendix A of this report contains a table summarizing agency jurisdiction for AN regulations in the United States.

The purpose of this document is to provide preliminary options as a starting point for additional stakeholder discussion. The stakeholder discussion and comment that follows the release of these preliminary options is a critical step in our effort to evaluate the practicality and effectiveness of options to inform a plan for implementing improvements to chemical risk management. This document is a tool for prompting additional thought and obtaining additional information necessary to further evaluate, refine, and supplement these initial options, and we anticipate that the options may change significantly in the coming months. Moreover, this effort does not supersede official or standard processes for agency actions, such as notice and comment rulemaking.

A public docket (OSHA-2013-0026) has been opened for Section 6 of the Executive Order, and we invite the public to submit comments on the options listed below. Appendix B of this report contains instructions for submitting comments to the Section 6 docket. Additional information on Section 6 of the Executive Order is available at:
http://www.osha.gov/chemicalexecutiveorder/index.html

Background on Existing Regulations

OSHA

OSHA's PSM standard (29 CFR 1910.119) sets requirements for the management of highly hazardous substances to prevent and mitigate catastrophic releases of flammable, explosive, reactive, and toxic chemicals that may endanger workers. The standard allows employers flexibility to develop and implement management systems tailored to their processes. The PSM standard covers the manufacturing of explosives and processes involving threshold quantities of flammable liquids and flammable gasses, as well as 137 other highly hazardous chemicals.

OSHA's Flammable and Combustible Liquids standard (29 CFR 1910.106) is primarily based on the National Fire Protection Association's (NFPA's) publication NFPA 30, Flammable and Combustible Liquids Code. The standard applies to the handling, storage, and use of flammable and combustible liquids with a flash point below 200°F. There are two primary hazards associated with flammable and combustible liquids: explosion and fire. In order to prevent these hazards, this standard addresses the primary concerns of design and construction, ventilation, ignition sources, and storage.

OSHA's Spray Finishing Using Flammable and Combustible Materials standard (29 CFR 1910.107) applies to flammable and combustible finishing materials when applied as a spray by compressed air, "airless" or "hydraulic atomization," steam, electrostatic methods, or by any other means in continuous or intermittent processes. This standard is discussed in conjunction with the Flammable and Combustible Liquids standard because current consensus standards and best practices generally apply to both industries.

OSHA's Explosive and Blasting Agents standard (29 CFR 1910.109) sets requirements for the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. The standard also states that the manufacturing of explosives and pyrotechnics shall also meet the requirements of PSM. The standard specifically covers

ammonium nitrate storage in paragraph (i), describing requirements for general storage, bulk storage, contaminants, electrical protection, and fire protection.

While the PSM standard has been effective in improving process safety in the United States and protecting workers from many of the hazards associated with uncontrolled releases of highly hazardous chemicals, major incidents have continued to occur. OSHA's Flammable Liquids standard and Spray Finishing standard were first published in 1974 based on NFPA consensus standards from the 1960s, and OSHA's requirements for storage of ammonium nitrate, contained in §1910.109, are based on a 1970 NFPA consensus standard. The format and requirements of the standards may therefore be out of date and in need of updating based on the latest applicable consensus standards. As such, OSHA is seeking public input on potential areas where we could improve these standards. Areas to consider include:

- Modernizing the PSM standard;
- Updating the PSM Appendix A list of coverage substances;
- Clarifying the retail and atmospheric storage tank exemptions in PSM;
- Updating and clarifying covered concentrations of the Appendix A list of PSM regulated chemicals;
- Exploring options for improving coverage of reactive substances, reactivity hazards, and explosive chemical hazards;
- Exploring a reporting requirement for PSM covered facilities;
- Updating the Flammable and Combustible Liquids standard;
- Updating the Spray Finishing Using Flammable and Combustible Materials standard;
- Evaluating the implementation of best practices and lessons learned such as the "safety case" regulatory model to reduce risk in complex industrial processes;
- Assessing safer alternatives as mechanisms to reduce chemical risk; and
- Evaluating opportunities for increasing worker involvement and labor-management cooperation in hazard investigations.

There are a number of potential mechanisms to improve these areas, including voluntary programs, policy changes, new agency guidance, and regulations. Many of these options are discussed, in detail, in OSHA's PSM RFI.

As set forth in the Executive Order, OSHA published its PSM RFI in the Federal Register (https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents). The PSM RFI requests comment on potential revisions to OSHA's PSM standard, Explosives and Blasting Agents standard, Flammable Liquids standard and Spray Finishing standard, and potential changes to PSM enforcement policies. The PSM RFI asks for information and data on specific rulemaking and policy options, and the workplace hazards they address. OSHA will use the information received in response to this RFI to determine what action, if any, it may take.

EPA

EPA implements the Emergency Planning and Community Right to Know Act (EPCRA) (40 CFR part 355 and 370), which was designed to promote emergency planning and preparedness at the state, local, and tribal levels. EPCRA helps ensure local communities and first responders have the information they need about chemical hazards within their communities to develop community emergency response plans. Under the emergency planning sections of EPCRA,

facilities with Extremely Hazardous Substances (EHS) must notify the State Emergency Response Commission (SERC) or Tribal Emergency Response Commission (TERC) and Local Emergency Planning Committee (LEPC) or Tribal Emergency Planning Committee (TEPC), as well as participate in local emergency planning activities. LEPCs and TEPCs are then responsible for developing a community emergency response plan. Within the community right-to-know requirements of EPCRA, facilities that have either (1) a hazardous chemical present at or above 10,000 pounds or (2) an EHS present at or above its Threshold Planning Quantity (TPQ) or 500 pounds—whichever is less, are required to submit an Emergency and Hazardous Chemical Inventory form (Tier II) and a Material Safety Data Sheet (MSDS) for that chemical to their SERC, LEPC and local fire department. Local fire departments receive this information and should use it to understand the chemical present at facilities in their community and what to do to respond to an accident at the facility. Additionally, the information about chemicals in the community is made available to the public.

EPA's RMP rule (40 CFR 68), established under the Clean Air Act, is aimed at reducing chemical risks at the local level. EPA's rules require owners and operators of a facility that manufactures, uses, stores, or otherwise handles certain listed flammable and toxic substances to develop a risk management program that includes a hazard assessment (including an evaluation of worst-case and alternative accidental release scenarios), prevention mechanisms, and emergency response measures. The "Hazard Review" must identify opportunities for equipment malfunction or human error (such as flood or fire), that could in turn cause the accidental release of the covered substance, as well as safeguards to prevent the potential release, and steps to detect and monitor for a release. These elements are documented in a risk management plan that is submitted to EPA and shared with the state, LEPC and local responders. Covered facilities must implement and update their risk management plans every 5 years or when certain changes occur. The goal of EPA's RMP rule is to prevent accidental releases of substances that can cause serious harm to the public and the environment, and to mitigate the severity of releases that do occur. RMP information helps local fire, police, and emergency response personnel prepare for and respond to chemical accidents, while allowing citizens to understand chemical hazards in their communities. EPA conducts chemical plant safety inspection and enforcement efforts at covered facilities based upon this rule.

While EPA believes the EPCRA and RMP regulation made important progress in preventing and mitigating chemical accidents in the United States and protecting communities from chemical hazards, more needs to be done reviewing and evaluating current program and practices, and applying lessons learned to continuously advance chemical safety and risk management. For that reason, EPA is seeking public input on potential areas to improve the RMP program and further reduce the number of chemical accidents within the United States. There are several categories of items within this document where potential options have been developed based on information gathered during listening sessions, input from stakeholders, and experiences from implementing the program. Categories to consider include:

- Updating the list of regulated substances;
- Exploring options for improving coverage of reactive substances, reactivity hazards, and explosive chemical hazards;
- Expanding inspector training to include best practices and improve chemical safety beyond regulatory requirements;

- Further enhancing EPA software tools for emergency responders (e.g., the suite of software products called Computer Aided Management of Emergency Operations (CAMEO));
- Evaluating the implementation of best practices and lessons learned such as the "safety case" regulatory model to reduce risk in complex industrial processes;
- Identifying ways to use safer alternatives as mechanisms to reduce chemical risk; and
- Evaluating opportunities for increasing worker involvement and labor-management cooperation in hazard investigations.

There are a number of potential mechanisms to implement these categories, including voluntary programs and agency guidance and regulations.

USCG

The United States Coast Guard is responsible for enforcing a wide range of regulations that address safety and security on vessels and on waterfront facilities, including the handling, transfer, and stowage of explosives and hazardous materials. USCG is responsible for maritime security under the Maritime Transportation Security Act (MTSA, 46 USC 70101), which includes authority over certain port facilities that use, store, or transport chemicals or engage in other chemical-related activities. MTSA reinforces the national and global importance of security for the marine transportation system, and provides a crucial framework for ensuring the safety of maritime commerce and our domestic ports. MTSA's key requirement is to prevent a maritime transportation security incident (TSI) - defined as any incident that results in a significant loss of life, environmental damage, transportation system disruption, or economic disruptions to a particular area. Within the maritime venue, preventing TSI's has been a core mission of the Coast Guard since its beginning.

- The Coast Guard is working with NPPD and other elements within the Department of Homeland Security to seek input on improving the safety and security of the nation's maritime critical infrastructure

ATF

ATF is responsible for enforcing federal explosives laws that govern commerce in the explosives industry in the United States – including licensing, storage, record keeping, and conduct of business. ATF conducts inspections of federal explosives licensees who manufacture, import, sell or store explosives in the United States to ensure explosives are managed in accordance with federal law.

ATF does not have jurisdiction over precursor chemicals and materials, such as ammonium nitrate. Although ATF regulatory requirements have been generally effective in ensuring safe and secure storage of explosive materials, there may be certain gaps that could be addressed through voluntary programs, regulatory clarification or amendment, or legislation.

ATF continues to seek stakeholder input on the following opportunities:

- Developing and encouraging best practices related to safety and security of precursor materials used in the explosives manufacturing and operational processes, to include ammonium nitrate;

- Examining potential applications of quantitative risk assessment tools to explosives-related industry operations;
- Continued partnering with industry to develop means to account for bulk materials and ammonium nitrate;
- Effective implementation of outreach programs to identify and report suspicious and unsafe behaviors associated with unregulated explosives and precursor chemical materials;
- Means for mitigating duplicative Federal qualification and inspection requirements; and
- Unsafe making of explosive materials by unregulated persons.

There are a number of mechanisms to address these issues, such as updated publications; effective use of internet and social media; legislation; amended regulations, and clarification of policies and rules.

NPPD

NPPD is responsible for implementing CFATS, the Federal government's primary regulatory authority for security of chemicals at stationary facilities. CFATS is making the nation more secure by requiring high-risk chemical facilities to develop and implement security plans that meet eighteen risk-based performance standards established by DHS. Additionally, since the program's inception, more than 3,000 facilities have voluntarily removed or reduced the onsite quantity of chemicals of interest to the point that the facilities are no longer considered high-risk.

NPPD is also responsible for developing and managing regulations to implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act, which mandated that DHS create a framework to "regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility…to prevent the misappropriation or use of ammonium nitrate in an act of terrorism." Under the Secure Handling of Ammonium Nitrate provisions, certain purchasers and sellers of ammonium nitrate would be required to register with DHS and be screened against the Terrorist Screening Database. Additionally, sellers of ammonium nitrate would be subject to certain recordkeeping requirements as well as requirements to report thefts or losses of ammonium nitrate. DHS is in the process of developing a final rule to implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act to ensure continued access by the public to ammonium nitrate for legitimate purposes, and to improve the security of ammonium nitrate with minimal economic impacts.

While NPPD believes that CFATS has greatly improved the security of the Nation's chemical facilities, and that the Secure Handling of Ammonium Nitrate program, once implemented, will reduce the risk of misuse of ammonium nitrate in a terrorist attack, NPPD remains committed to continual improvement in our programs and to working with our stakeholders to enhance security at America's highest-risk chemical facilities. In light of that, as part of the efforts to implement Executive Order 13650, NPPD is seeking public input on a variety of areas to potentially improve CFATS and the prospective Secure Handling of Ammonium Nitrate programs, including:

- Options to improve the secure storage, handling, and sale of ammonium nitrate;
- Potential updates to the CFATS chemicals of interest list and the screening threshold quantities of certain substances contained on that list;
- Options for improving the coverage of reactive substances and reactivity hazards;

- Options for addressing security of chemicals at agricultural production facilities;
- Opportunities to leverage industry best practices in chemical facility security;
- Methods for identifying economically and mission critical chemical facilities;
- Opportunities to harmonize facility security standards across different programs; and
- Approaches to identifying potential high-risk chemical facilities that have not yet complied with their initial CFATS obligations.

There are innumerable ways to address these issues, including potentially through voluntary programs, updated agency guidance or regulations, or legislative approaches, and NPPD is interested in public input on each of those mechanisms for addressing these challenges.

Summary of the Policy, Regulation, and Standards Modernization Requirements of the Executive Order

Section 6(a) requires the working group to: i) within 90 days, develop options for improved chemical facility safety and security that identify improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations; (ii) within 90 days of developing the options, engage key stakeholders to discuss the options and other means to improve chemical risk management that may be available; and (iii) within 90 days of completing the outreach and consultation effort, develop a plan for implementing the practical and effective improvements to chemical risk management that the agencies identified.

Section 6(b) requires the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of Agriculture to develop a list of potential regulatory and legislative proposals to improve the safe and secure storage, handling, and sale of AN and identify ways in which AN safety and security can be enhanced under existing authorities. EPA and ATF also joined in this effort.

Section 6(c) requires OSHA, within 90 days, to review the chemical hazards covered by the PSM standard[1] and EPA to review similar hazards covered by the RMP rule[2] to determine if PSM or RMP can and should be expanded to address additional regulated substances and types of hazards. In addition, §6(c) requires OSHA and EPA to develop a plan, including a timeline and resource requirements, to expand, implement, and enforce PSM and RMP in a manner that addresses the additional regulated substances and types of hazards.

Section 6(d) requires NPPD to identify, within 90 days, a list of chemicals, including poisons and reactive substances that should be considered for addition to the CFATS COI list.

Section 6(e) requires OSHA, within 90 days, to: i) identify any changes that need to be made in the retail exemption and maximum commercial grade interpretation in the PSM standard; and ii) publish an RFI on modernizing its PSM standard and related standards. OSHA will consider comments received through the RFI, as well as known issues, in deciding whether to pursue rulemaking to amend the PSM standard, as well as developing changes to enforcement policies

[1] 29 CFR 1910.119

[2] The term "RMP rule" in this document refers to 40 CFR 68. Where this document refers to potential revisions to or clarification of the RMP rule, EPA could conduct such changes through any of the rulemaking authorities under CAA 112(r)(3)-(5), (7).

in regard to the retail exemption and maximum commercial grade interpretation, and modernizing other standards. (OSHA's RFI, as well as instructions for submitting comments, can be found at http://www.gpo.gov/fdsys/pkg/FR-2013-12-09/pdf/2013-29197.pdf).

Section 6(a): Options for Improved Chemical Facility Safety and Security

The working group developed a list of preliminary options for improvements to existing risk management practices based on feedback the agencies received from stakeholders in past years, as well as recent public comments collected in connection with the Executive Order, including public listening sessions. The options identify potential adjustments and improvements to existing risk management practices as well as suggestions for new areas of focus to improve chemical safety and security. The options for this section are listed under key topic areas.

The working group is particularly interested in receiving comments that contain the following information:

- Examples of where implementation of the same or similar options has been successful;
- Information or data that would characterize the positive impacts the options might have, including additional benefits;
- Potential limitations or unintended consequences of the options described;
- Methods for implementing the options, including methods for potentially increasing benefits or reducing costs; or
- Alternatives to the options that could achieve substantially the same result.

1. **Improving the Safe and Secure Storage, Handling, and Sale of Ammonium Nitrate**

Options:

a. *How could the safety and security of storage, handling, and sale of AN be strengthened through rulemaking, policy changes, or guidance, and do existing AN requirements need to be clarified?* OSHA's existing requirements for AN are contained in 29 CFR 1910.109. OSHA has requested, in its RFI, comments on best practices for storing and handling ammonium nitrate. EPA does not currently regulate AN under the RMP rule, but is seeking input on the need for issuing regulations (e.g., listing AN on the RMP list of regulated substances), or issuing further guidance for AN storage and handling to increase knowledge of industry standards and best practices facilities should follow to ensure compliance with the Clean Air Act (CAA) General Duty Clause (GDC). NPPD is in the process of reviewing public comments submitted on a proposed final rule regarding the sale of AN. The Working Group is also examining how other countries regulate and classify different grades of AN and mixtures containing AN to learn from and make use of successful practices elsewhere.

b. *Should DHS consider lowering the screening threshold quantities for AN under CFATS?* Subject to certain exceptions or extensions, facilities with 5,000 pounds or more of explosives-grade AN, 400 pounds or more of explosives-grade AN in transportation packaging, or 2,000 pounds of agricultural grade AN in transportation packaging must submit a CFATS Top-Screen to DHS to allow DHS to assess the facility's risk level. DHS could consider reducing the threshold quantities of AN under CFATS, which could result in additional facilities with lower quantities of AN being required to complete and submit a CFATS Top-Screen.

c. *Should DHS review the Top-Screen filing extension granted to agricultural production facilities?* Previously, DHS extended until further notice the deadline for

farmers and other agricultural facilities that use COI for certain agricultural purposes to submit CFATS Top-Screens. See 73 Fed. Reg, 1640. Specifically, the deadline for submission of a Top-Screen was extended for any facility required to submit a Top-Screen solely because it possesses any COI, at or above the applicable screening threshold quantity, for use: (a) in preparation for the treatment of crops, feed, land, livestock (including poultry) or other areas of an agricultural production facility; or (b) during application to or treatment of crops, feed, land, livestock (including poultry) or other areas of an agricultural production facility. The extension applies to facilities such as farms (e.g., crop, fruit, nut, and vegetable); ranches and rangeland; poultry, dairy, and equine facilities; turfgrass growers; golf courses; nurseries; floricultural operations; and public and private parks. The extension does not apply to chemical distribution facilities or commercial chemical application services. There are various options DHS could choose in lieu of this extension including eliminating it, making it permanent, or replacing it with a CFATS process specially designed for agricultural production facilities.

d. What are potential updates to the August 2013 Chemical Advisory: Safe Storage, Handling, and Management of Ammonium Nitrate or additional AN guidance products that would assist the private sector and state and local governments with improving on-the-ground safety and security? EPA, OSHA, MSHA, and ATF are considering updating the Advisory with new information resulting from the West, TX incident investigation, newly developed procedures and practices, new technical information as well as clarifications or corrections. Additional guidance products may include, but are not limited to, documents that will assist fertilizer distributers with proper AN safety and regulatory compliance.

e. How should the agencies evaluate the implementation of safer alternatives and best practices for AN, and what are the best methodologies for accomplishing this? Safer alternatives and practices involve improving safety by reducing or eliminating hazards inherent in industrial processes. These alternatives and practices may involve reducing the amount of a hazardous substance kept on-site, or entirely eliminating the hazardous chemical by utilizing an alternative chemical pathway or safer intermediate chemicals. Promoting the use of safer alternatives and practices could occur through industry programs (e.g. Responsible Care, ChemStewards, and Responsible Distribution), by issuing alerts and guidance under EPA's RMP program and OSHA's PSM standard to increase knowledge of industry standards, through development and broad availability of a resource center where process safety experts share safer alternative techniques, and through potential rulemaking. Several stakeholders also have suggested incorporating "inherently safer technologies" into risk and process safety programs and the agencies are requesting additional information on how this concept would be defined, accomplished, and measured. In addition, the agencies are requesting comment on the potential costs and benefits of implementing such an approach as opposed to other approaches.

f. Should the agencies examine the use of third-party audits and develop targeted guidance for industries that need assistance in understanding safe practices for handling AN? Third party audits are inspections conducted by appropriate independent auditors (retained by a chemical facility) who make process safety and regulatory compliance recommendations. According to the Center for Chemical Process Safety (CCPS), "Third party auditors (typically, consulting companies who can provide experienced auditors) potentially provide the highest degree of

objectivity."[3] The U.S. Department of the Interior, Bureau of Safety and Environmental Enforcement's (BSEE) Safety and Environmental Management Systems (SEMS) standard, 30 CFR 250, Subpart S, requires audits conducted by an independent third party, subject to approval by BSEE, or by designated and qualified personnel if the employer implements procedures to avoid conflicts of interest.

2. **Process Safety Improvement and Modernization**

Options:

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. The agencies are considering whether to initiate rulemakings for updating the PSM standard and RMP rule. EPA and OSHA have collaborated on implementation of these programs, and are considering a number of options for modernization of regulations, policy, and guidance that would maintain parallel requirements and ensure harmony between the regulations. Although some of these specific options are discussed below, EPA and OSHA seek input on any additional opportunities to modernize, clarify, or harmonize these programs.

b. How should OSHA clarify the exemption for retail facilities under PSM? OSHA's RFI explains this option in further detail.

c. Should OSHA adopt EPA's RMP policy for determining PSM coverage of concentrations of PSM-listed chemicals (replacing OSHA's existing interpretation that applies the concept of maximum concentration commercially available to determine threshold quantities of covered chemicals)? The Executive Order refers to this issue as the commercial grade exemption. OSHA's RFI explains this in further detail.

d. What inconsistencies should OSHA and EPA harmonize to achieve consistency between PSM and RMP enforcement policies and guidance? While the RMP rule is intended to protect the community and environment and the PSM standard is intended to protect workers, PSM and RMP share 12 similar management-system requirements, such as the process hazards analysis, incident investigation, management of change, and mechanical integrity.

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? OSHA's RFI discusses and requests comment on additional management-system elements.

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. An indicator is any metric that can be used, modeled, or trended to predict future events. Lagging indicators may include frequency of injuries or incidents. Leading indicators include frequency of maintenance orders, frequency of maintenance orders completed late vs. on-time, number of equipment inspections, or percentage of sampled management of change

[3] Guidelines for Risk Based Process Safety, CCPS. http://www.aiche.org/ccps

orders that satisfy regulatory/internal compliance. OSHA's RFI also discusses and requests comments on this issue.

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?* Root-cause analysis involves identifying the systemic causes of incidents as opposed to the immediate causes. EPA, OSHA, and PHMSA plan to determine what level of root-cause analysis is appropriate and feasible.

h. *Would it be beneficial for OSHA to develop and publish PSM guidance for small businesses, particularly those that handle highly hazardous chemicals that are not the employer's primary product?* Small businesses often lack the resources and expertise of larger businesses for PSM elements such as training and process hazard analysis, and may require additional consultation or guidance from OSHA in order to meet PSM requirements. Businesses that handle highly hazardous chemicals that are not the facility's primary product may similarly lack PSM expertise and require special guidance.

i. *How should EPA, OSHA, PHMSA and USCG harmonize and standardize terminology in order to clarify requirements and definitions across multiple jurisdictions?* If pursued, this could include consideration of input from other agencies with performance-based standards, such as U.S. Department of the Interior, BSEE.

j. *Should inspector and compliance officer training be expanded to include best practices and to improve process safety beyond regulatory requirements?* EPA, OSHA, USCG, and PHMSA recognize that specialized training would allow inspectors and compliance officers to go beyond enforcement and recommend additional best practices to regulated entities to protect their workers, the surrounding community, and the environment. USCG already plans to enhance training and provide additional guidance to shippers of products.

k. *How could EPA update or upgrade software tools, such as CAMEO/ALOHA, MARPLOT, RMP*Comp, RMP*eSubmit, etc?* Computer Aided Management of Emergency Operations (CAMEO) is a suite of software products that includes a chemical hazard database, a mapping application, (MARPLOT - Mapping Applications for Response, Planning and Local Operational Tasks), and an atmospheric dispersion and fire/explosion modeling program (ALOHA – Aerial Locations of Hazardous Atmospheres). CAMEO, ALOHA, and MARPLOT were jointly developed by EPA and the National Oceanic and Atmospheric Administration (NOAA), and are used by local emergency planners and responders worldwide. RMP*eSubmit is an EPA software application used by facilities covered under the RMP regulation to submit risk management plans to EPA. RMP*Comp is an atmospheric dispersion modeling program developed by EPA and NOAA that is used by RMP-covered facilities to conduct worst-case scenario modeling under the RMP regulation**.**

l. *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?* This option could be used to replace, or in the environmental context supplement, existing PSM and RMP safety requirements with a system that requires employers to present to regulators a structured argument, supported by a body of evidence, that provides a compelling, comprehensible and valid case that a system is safe for a given application in a given operating environment. The safety case regulatory model provides employers with increased flexibility and allows regulators to set health and safety standards that are proportionate to the risk involved. For

example, a description of the United Kindom's safety case regulation can be found at http://www.hse.gov.uk/comah/. The agencies recognize this would be a major departure from the current regulatory model, and it would likely require legislative action to implement.

m. *Should the agencies evaluate the implementation of safer alternatives and best practices, and what are the best methodologies for accomplishing this?* Safer alternatives and practices involve improving safety by reducing or eliminating hazards inherent in industrial processes. These alternatives and practices may involve reducing the amount of a hazardous substance kept on-site, or entirely eliminating the hazardous chemical by utilizing an alternative chemical pathway or safer intermediate chemicals. Promoting the use of safer alternatives and practices could occur through industry programs (e.g. Responsible Care, ChemStewards, and Responsible Distribution), by issuing alerts and guidance under EPA's RMP program and OSHA's PSM standard to increase knowledge and awareness of industry standards, through development and broad availability of a resource center where process safety experts share safer alternative techniques, and through potential rulemaking. Several stakeholders also have suggested incorporating "inherently safer technologies" into risk and process safety programs and the agencies are requesting additional information on how this would be defined, accomplished, and measured. In addition, the agencies are requesting comment on the potential costs and benefits of implementing such an approach as opposed to other approaches.

n. *How should EPA and OSHA use RMP accident data to identify trends and use the information to develop guidance or regulatory changes, compliance priorities, and technical assistance? If so, what are the ways that this might be done?* RMP covered facilities are required to submit accidental release data to EPA when a release meets certain criteria, such as causing on- or off-site injuries or significant property damage. OSHA and EPA are interested in recommendations on how best to analyze this data, and what trends may be developed to indicate industry safety performance. Data are available from EPA via the Freedom of Information Act.

o. *What opportunities exist for increasing worker involvement and labor-management cooperation in hazard investigations, recommending corrective actions, risk management, and preventing retaliation against workers who report unsafe conditions?* Employee participation is currently required in all aspects of PSM and RMP, but OSHA and EPA are interested in any opportunities that would allow for greater workforce involvement. OSHA's RFI also discusses and requests comments on this issue.

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?* The working group is aware of many different industry programs aimed at improving chemical safety and security. Federal agencies could work with industry members to identify existing programs that might be worth leveraging and/or expanding, as well as to identify potential areas where industry-led programs could be developed to improve chemical safety and security.

q. *In which consensus standard groups should EPA and OSHA participate to stay current on industry best practices and improve chemical process safety?* For

example, NFPA-400 consolidates fundamental safeguards for the storage, use, and handling of hazardous materials in all occupancies and facilities, including ammonium nitrate; ANSI K61.1/CGA G-2.1 addresses the safety requirements for the storage and handling of anhydrous ammonia, including standards for the design, construction, repair, alteration, location, installation, and operation; and CCPS is an initiative of the American Institute for Chemical Engineers and is a non-profit organization that addresses process safety within the chemical, pharmaceutical, and petroleum industries. EPA and OSHA seek ideas on additional consensus standard groups for potential participation.

3. **Coverage of Additional Hazardous Chemicals or Categories of Chemicals under Process Safety and Security Regulations**

Options:

a. *Should OSHA and EPA initiate rulemaking to cover additional hazardous chemicals under the PSM standard and RMP rule? If so, how should the agencies identify these chemicals?* OSHA's RFI contains a detailed discussion of this option. The list of highly hazardous chemicals in the PSM standard has remained unchanged since the standard was initially published, and the regulated substances originally listed in the RMP rule have been narrowed without the addition of any substances. OSHA's RFI also discusses and requests comments on this issue.

b. *Is there a method, other than periodically updating the PSM and RMP lists of covered chemicals through rulemaking, that OSHA and EPA could use to expand their lists of covered chemicals?* As noted above, the list of highly hazardous chemicals in the PSM standard has remained unchanged since the standard was initially published, and the regulated substances originally listed in the RMP rule have been narrowed without the addition of any substances. OSHA's RFI also discusses and requests comments on this issue.

c. *What additional chemicals should NPPD consider adding to the existing CFATS COI list?* NPPD could consider adding additional chemicals to the list of CFATS COI to expand CFATS coverage to potential high-risk chemical facilities that might not currently be identified based on the existing list of CFATS COI. This could include, among other things, coverage of toxic and poisonous chemicals under CFATS.

d. *Should DHS attempt to harmonize security requirements at chemical facilities exempt from CFATS with the requirements applicable to CFATS-regulated facilities and, if so, how?* Certain chemical facilities are either exempt from coverage under CFATS or are subject to additional security regulations under other regulatory programs. Harmonization of appropriate standards might increase consistency in requirements and reduce any duplicative or conflicting regulatory requirements.

4. **Chemical Reactivity Hazards**

Options:

a. *Should OSHA and EPA initiate rulemaking, policy changes, or guidance to cover chemical reactivity hazards under the PSM standard and RMP rule? If so, what definitions, terms, and conditions should be used to best define hazards that can lead to reactive incidents?* The U.S. Chemical Safety and Hazard Investigation Board (CSB) has recommended that OSHA extend PSM coverage and EPA extend RMP coverage to chemicals based on a class of highly reactive properties, similar to the way PSM defines a class of flammable liquids or gases. A number of the chemicals

listed in the regulations are highly reactive chemicals based on a variety of metrics, including consensus standard sources, but the lists do not cover all highly reactive chemicals. OSHA's RFI also discusses and requests comments on this issue.

b. Should EPA, OSHA, and NPPD develop a definition of high risk chemical reactivity hazards for future rulemaking, policy changes, or guidance, and if so, what should be the basis of that definition? Currently, there is no consistent definition for reactivity or reactive chemicals. Various consensus groups (such as the NFPA and CCPS) and state laws (New Jersey's Toxic Catastrophe Prevention Act and Delaware's Hazardous Chemicals Act) utilize many different techniques for defining and protecting against reactive chemical hazards, but there is no consensus on the best approach to regulate reactive chemical hazards in the United States.

c. *How can EPA and OSHA continue to engage in industry initiatives on chemical reactivity such as the CCPS Reactivity Management Roundtable (RMR)?* The RMR was founded in 2003 by a small group of process safety professionals. They meet independently of both AIChE and CCPS with the goal of reviewing the CSB's Reactive Hazard Investigation report. This report analyzed 167 serious chemical reactivity incidents over a twenty-year period. The RMR works to recommend best practices that could reduce or eliminate reactivity incidents in the future. EPA and OSHA are interested in any other initiatives that could help the agencies determine how to regulate or provide guidance on reactive chemical hazards.

5. **Explosive Chemical Hazards**

<u>Options</u>:

a. What opportunities exist for involving stakeholders in the development of guidance, best practices, or regulatory action on explosives hazards? What guidance is specifically needed? Such input could be obtained through a combination of public meetings and listening sessions, webinars, Federal Register notices such as OSHA's RFI, participation at stakeholder conferences and workshops, etc. ATF and EPA also seek information on such opportunities for stakeholder involvement.

b. Should OSHA revise its Explosives and Blasting Agents standard to cover dismantling and disposal of explosives? The existing standard applies to the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. Although dismantling and disposing of explosives can be just as hazardous as the covered activities, dismantling and disposal are not activities covered by the existing standard.

c. Should ATF develop guidance to assist retailers in identifying suspicious purchases of explosive materials where minimal or no statutory controls exist, such as smokeless powder, black powder, and binary exploding targets? ATF has identified potential gaps in requirements under current statutes (purchaser background checks, retailer licensing, records requirements) for retailers and end users of binary exploding targets, smokeless powder, black powder, and black powder substitutes.

d. Should ATF update regulatory requirements or develop guidance for voluntary best practices in collaboration with industry associations on more robust locking mechanisms for explosives storage? ATF has identified potential updates to construction requirements for explosives storage to protect against theft, attempted theft, and diversion of explosive materials.

e. *Should ATF further collaborate with the Institute of Makers of Explosives to identify permissible deviations or standards for physical factors in bulk storage of explosives?* ATF has found that physical factors (expansion, contraction, equipment

calibration, etc.) can impact a license or permit holder's ability to accurately measure and account for bulk storage of explosives.

6. **Oil and Gas Facilities**

Options:

a. *Should OSHA initiate rulemaking to cover oil and gas well drilling and servicing facilities under the PSM standard?* During the original PSM rulemaking, oil and gas well drilling and servicing facilities were exempted from coverage because OSHA intended to issue a separate Oil and Gas standard covering such facilities. However, this standard was never published, leaving a gap in coverage. OSHA's RFI also discusses and requests comments on this issue.

b. *Should EPA modify the RMP regulation to cover upstream oil and gas production facilities?* EPA is requesting input on whether the Agency should clarify its exemption at §68.115(b)(2)(iii) for naturally occurring hydrocarbon mixtures prior to their entry into a natural gas processing plant or petroleum refining process unit. Under part 68, such mixtures, which include crude oil, field gas, produced water, and condensate, need not be considered when determining whether more than a threshold quantity is present at a stationary source. Also, EPA is requesting whether it is necessary to revise its criteria for coverage of flammable mixtures so as to extend part 68 coverage to additional upstream oil and gas facilities..

c. *What would be the economic impact of OSHA resuming PSM enforcement for oil and gas production facilities?* OSHA is not currently enforcing PSM requirements at oil and gas production facilities. OSHA is considering whether to resume enforcement of the PSM standard at these facilities after it performs an economic analysis of the costs of PSM compliance on these employers. OSHA's RFI discusses and requests comment on the impacts of resuming PSM enforcement for oil and gas production facilities.

d. *Should EPA develop a chemical accident prevention advisory on design of Liquefied Petroleum Gas (LPG) installations at natural gas processing plants to emphasize good practices, such as those provided by NFPA and the American Petroleum Institute (API)?* Inspections conducted by EPA revealed that some LPG installations at natural gas processing plants are not designed in full accordance with prevailing NFPA and API industry standards; an advisory detailing these deficiencies could help industry understand and comply with the standards.

e. *What options from the interagency stakeholder meeting on the Use of Performance-based Regulatory Models in the U.S. Oil and Gas Industry, Offshore and Onshore, jointly held by OSHA, EPA, BSEE, USCG, PHMSA in Texas City, Texas, on September 20 and 21, 2012, should OSHA continue to evaluate*? Expert speakers at the meeting addressed the current regulatory landscape and discussed the challenges and benefits of non-prescriptive, outcome-based approaches to reduce the frequency and severity of harmful events. The meeting also provided time for public comments, and OSHA received 14 written comments in the docket it opened for the meeting, OSHA-2012-0033 . Transcripts and comments from the meeting are available at www.regulations.gov (http://www.regulations.gov/#!docketDetail;D=OSHA-2012-0033).

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

Options:

a. *Should EPA clarify the RMP gasoline exemption and revise the NFPA 4 flammability cutoff to increase regulatory coverage of large gasoline-storage terminals? If so, how?* Regulated substances in gasoline, when in distribution or related storage for use as fuel for internal combustion engines, are not currently covered under the RMP regulation.
b. *Should OSHA clarify the PSM standard's exemption, through regulation, for atmospheric storage tanks, and, if so, what should the exemption cover?* In Secretary of Labor v. Meer Corporation (1997) (OSHRC Docket No. 95-0341), an administrative law judge ruled that PSM coverage does not extend to flammables stored in atmospheric tanks, even if the tanks are connected to a process. As a result, employers can exclude the amount of flammable liquid contained in an atmospheric storage tank, or in transfer to or from storage, from the quantity contained in the process when determining whether a process meets the 10,000-pound threshold quantity. The Meer decision was contrary to OSHA's interpretation of this aspect of the PSM standard, which was that the standard covers all stored flammables when connected to, or in close proximity to, a process. The CSB recommended that OSHA address relevant hazards through rulemaking. OSHA's RFI discusses and requests comment on this issue.
c. *Should OSHA update its Flammable Liquids and Spray Finishing standards to reflect the latest consensus standards?* OSHA first published these standards in 1974 and based the requirements on NFPA consensus standards from the 1960s. The format and requirements of the standards may therefore be out of date, and could be updated based on the latest applicable consensus standards. OSHA's RFI discusses and requests comment on this issue.

8. **Process and Hazardous Chemical Security**

Options:

a. *What options should NPPD consider to incorporate economic and mission criticality into the CFATS risk-tiering methodology?* Currently, facilities are determined to be high risk chemical facilities subject to CFATS based solely on risks associated with consequences to human life.
b. *Should DHS clarify the CFATS reporting requirements as they relate to COI in fuels?* Subject to certain exceptions, facilities that possess a threshold level of any CFATS COI are required to submit a CFATS Top-Screen to DHS. This includes COI that are contained in mixtures. Many fuels contain certain COI, but some stakeholders have expressed confusion regarding how the current CFATS regulation treats those fuels.
c. *Should EPA develop an alert on prevention of accidental releases due to unauthorized access at oil and gas facilities, and in consultation with NPPD, consider additional strategies to prevent such unauthorized access*? The CSB issued a report on Public Safety at Oil and Gas Storage Facilities. The report highlighted a number of fatal accidents that resulted from unauthorized public access (e.g., trespassing) at unmanned oil & gas facilities, and recommended that alert be published and directed to owners and operators of exploration and production facilities with flammable storage tanks.
d. *What vetting systems other than National Instant Criminal Background Check (NICS) should ATF use for more frequent vetting of employee possessors of explosives and responsible persons on Federal explosives licenses and permits?* The

existing NICS regulations essentially do not allow ATF to vet employee possessors of explosives and responsible persons on Federal explosives licenses and permits more frequently than every three years (upon new application and renewal application).

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

Options:

a. *Should facilities covered under PSM but not RMP be required to register under the RMP reporting system?* OSHA does not require PSM-covered facilities to register with OSHA. However, EPA requires RMP-covered facilities to register with EPA a risk management plan that indicates whether the facility is also covered under PSM. This presents an opportunity for EPA and OSHA to collaborate by using EPA's existing RMP reporting system to identify PSM-covered facilities, even when not covered under RMP.

b. *How can DHS most effectively identify entities that have not submitted required CFATS' Top-Screens?* DHS believes that it has received CFATS Top-Screens from the majority of facilities that should have submitted them, but like any regulatory program that relies in part on self-reporting, 100% compliance is difficult to achieve. The expansive and dynamic nature of the business communities that use CFATS COI further increases the difficulty of doing so under CFATS. Nevertheless, DHS is committed to pursuing all reasonable measures to identify potential high-risk chemical facilities that are not among those that have already complied with initial CFATS requirements, and we will continue to work to get those facilities into compliance.

APPENDIX A – Ammonium Nitrate Jurisdiction Table

Agency	Regulatory Scope	AN-Specific Regulations	Explosive Grade Coverage	Non-Explosive Grade Coverage
DHS (CFATS)	Regulates COI (including AN) and regulates facilities that sell and transfer AN to prevent misappropriation or use in acts of terrorism	Requires facilities storing 5,000 pounds or more of explosives-grade AN, 400 pounds or more of explosives-grade AN in transportation packaging, or over 2,000 lbs of agricultural grade AN in transportation packaging to submit "top screen survey application" (6 CFR Part 27)		
DOT (PHMSA)	Regulates packaging and hazard communication of hazardous materials (including AN) transported by air, highway, rail, and water	Requires transporters of 1,000 lbs or more of AN to train employees, register with DOT, have a security plan, and comply with packaging, emergency communications, stowage and other safety requirements		
DOL (OSHA)	Classifies hazards of chemical products, regulates communication of those hazards, and regulates storage of certain chemical products	Requires storage facilities to make SDS' available in the workplace, and prescribes storage facility design and operating practices standards	Regulates Manufacture of Explosives and blasting agents, 1910.109	Also covered by 1910.109.
DOL (MSHA)	Classifies hazards of chemicals and chemical products, regulates communication of those hazards, and regulates storage of hazardous chemicals for mining and milling as defined under the Federal Mine Safety and Health Act Metal and nonmetal surface mines: 30 C.F.R. Part 56, Subpart E, Explosives, Sections 56.6000- 56.6905 Metal and nonmetal underground		Regulates storage, transportation, use, and maintenance of explosives and explosive devices at mining operations	

	mines: 30 C.F.R. Part 57, Subpart E, Explosives, Sections 57.6000-57.6905 Coal underground mines: 30 C.F.R. Part 75, Subpart N, Explosives and Blasting, Sections 75.1300-75.1328 Coal surface mines and surface work areas of underground mines: 30 C.F.R. Part 77, Subpart N, Explosives and Blasting, Sections 77.1300-77.1304			
DOJ (ATF)	Regulates the commerce and storage of commercial explosives	Separation distances are required between blasting agents or high explosives and ammonium nitrate where these materials are co-located (27 CFR 555.220)	Not applicable to AN	Not applicable to AN
U.S. Coast Guard	Regulates security, trade and commerce carried out at U.S. ports and waterways, including the safety and security of bulk cargoes such as AN	Bulk shipments of AN are considered "cargo of particular hazard" or "certain dangerous cargo" for shipments exceeding 1,000 lbs by the USCG. Handling of bulk AN at waterfront facilities requires a permit, marking, ventilated storage, storage in areas at a safe distance from sources of heat, debris, and at least 30 ft. from organic or flammable materials. Spills must be promptly cleaned up and a source of water for fire-fighting readily available.		
EPA	Require facilities to submit Material Safety Data Sheet (MSDS) and Hazardous Chemical Inventory Form (Tier I/Tier II) to State and local officials and fire departments on any hazardous chemical defined under OSHA's Hazard Communication			

	Standard at or above the reporting threshold. OSHA hazardous chemicals includes AN. (40 CFR part 370)			
	General Duty Clause under CAA - Self-implementing statutory provision applicable to owners of stationary sources with extremely hazardous substances (any substance that, as a result of an accidental release, can cause death, serious injury, or substantial property damage). (CAA §112(r)(1))			
Non-Regulatory	**Scope**	**Recommendations**		
National Fire Protection Agency (NFPA)	NFPA 400 Hazardous Materials Code	Covers storage, use, handling of solid and liquid AN (Chapter 11).		
Institute of Makers of Explosives (IME)	Safety Library Publication (SLP) 28 – Recommendations for Accountability and Security of Bulk Explosives and Bulk Security Sensitive Materials. SLP 23 – Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packaging			

Appendix B – Submitting Comments to the Section 6 Docket

DATES: We invite the public to submit comments on the options in this document and Section 6 of the Executive Order by March 31, 2014. All submissions must bear a postmark or provide other evidence of the submission date. The following section describes the available methods for making submissions.

ADDRESSES: Submit comments and additional materials by any of the following methods:

***Electronically*:** Submit comments and attachments electronically at http://www.regulations.gov, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

***Facsimile*:** OSHA allows facsimile transmission of comments and additional material that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693-1648. OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (for example, studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must identify clearly the sender's name, the date, subject, and docket number (OSHA-2013-0026) so that the Docket Office can attach them to the appropriate document.

***Regular mail, express mail, hand delivery, or messenger (courier) service*:** Submit comments and any additional material (for example, studies, journal articles) to the 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; telephone: (202) 693-2350. (OSHA's TTY number is (877) 889-5627.) Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

***Instructions*:** All submissions must include the Agency's name and the docket number for Section 6 of the Executive Order (that is, OSHA-2013-0026). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at http://www.regulations.gov**.** Therefore, OSHA cautions commenters about submitting statements they do not want made available to the public and submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

If you submit scientific or technical studies or other results of scientific research, OSHA requests (but is not requiring) that you also provide the following information where it is available: (1) identification of the funding source(s) and sponsoring organization(s) of the research; (2) the extent to which the research findings were reviewed by a potentially affected party prior to publication or submission to the docket, and identification of any such parties; and (3) the nature of any financial relationships (e.g., consulting agreements, expert witness support, or research funding) between investigators who conducted the research and any organization(s) or entities having an interest in the rulemaking, policy, and guidance options discussed in the Section 6

report. Disclosure of such information is intended to promote transparency and scientific integrity of data and technical information submitted to the record. This request is consistent with Executive Order 13563, issued on January 18, 2011, which instructs agencies to ensure the objectivity of any scientific and technological information used to support their regulatory actions. OSHA emphasizes that all material submitted to the record will be considered by the agencies in the event of rulemaking.

***Docket*:** To read or download submissions or other material in the docket, go to http://www.regulations.gov or the OSHA Docket Office at the address above. The http://www.regulations.gov index lists all documents in the docket. However, some information (e.g., copyrighted material) is not available publicly to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

For Further Information Contact:

***Press inquiries*:** Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999; e-mail: meilinger.francis2@dol.gov.

***General and technical information*:** Ms. Lisa Long, Director, Office of Engineering Safety, OSHA Directorate of Standards and Guidance, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210; telephone: (202) 693-2222; email: long.lisa@dol.gov