

**PERCHLOROETHYLENE (PCE); REGULATION
UNDER THE TOXIC SUBSTANCES CONTROL
ACT (TSCA)**

Office of Pollution Prevention and Toxics
Environmental Protection Agency

**AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS
COMMENTS**

Attention: EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP

August 15, 2023
Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

I. Introduction

The American Fuel & Petrochemical Manufacturers (“AFPM”) respectfully submits these comments on the Environmental Protection Agency’s (“EPA” or “the Agency”) Federal Register notice titled, “Perchloroethylene; Regulation Under the Toxic Substances Control Act (TSCA)” (“Proposed Rule” or “Proposal”). In its Federal Register notice, EPA is proposing to require a Workplace Chemical Protection Program (“WCPP”) that includes meeting a new type of workplace exposure limit and prevention of direct dermal contact.¹ AFPM’s comments highlight the following concerns with the Proposed Rule:

- Imposes burdens on the workplace beyond the owner/operator's control,
- Proposes standards and Personal Protective Equipment (“PPE”) selection criteria that are duplicative or contradictory to other regulatory agencies,
- Proposes an entirely new workplace exposure limit that is intended to supplant the current exposure limits established by other federal and state agencies, and,
- Includes overly detailed planning requirements that will overwhelm workers.

II. AFPM Interest in the Proposed Rule

AFPM is the leading trade association representing the manufacturers of the fuels that keep America moving and base petrochemicals that are the essential building blocks for organic chemistry, including plastic products that improve the health, safety, and living conditions of humankind and make modern life possible. AFPM members are committed to sustainably manufacturing safe, high-performing fuels and the petrochemicals and derivatives for plastics that growing global populations and economies need to thrive. AFPM members use PCE as a chloriding agent to regenerate catalysts used to make EPA-compliant fuels.

III. “Conditions of Use” for PCE in Refining Processes

PCE is used as a catalyst regenerator in isomerization and catalytic reforming processes at petroleum refineries. The resulting products from these processes, called isomerate and reformate, go into gasoline blends that make up approximately 45% of the gasoline pool in the United States.² The catalyst is critical to process safety because it allows the processes to run at lower reaction temperatures, which is an engineering control to lower the overall safety risk and reduce carbon dioxide emissions from the process.

PCE is the safest catalyst activator and regenerator for spent catalyst during normal operating conditions. The alternatives, such as trichloroethylene, chlorine gas, methylene chloride, and carbon tetrachloride, are either more hazardous or less efficient, which require larger amounts of hazardous materials to be transported and stored onsite, increasing the exposure risks. Furthermore, most of the other chloriding agents are restricted by EPA or are undergoing risk management due to EPA findings of unreasonable risk. One particular

¹ See 88 *Fed. Reg.* 39652, “[Perchloroethylene; Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023.

² From Honeywell UOP (UOP) technical presentation to EPA on isomerization and reforming processes, and the use of PCE as a catalyst regenerator.

alternative catalyst regenerator, chlorine, is regulated under Department of Homeland Security and United States Coast Guard security regulations and switching to that substance would increase the overall security risk of the facility.

PCE must be replenished on a periodic basis and is transported to the facility by suppliers who take responsibility for their own employees, especially in the areas of training and personal protection. Certain transfer operations are also covered by Department of Transportation (“DOT”) regulations. The predominant transportation method is by tote or tank truck. If delivered by tank truck, the PCE is transferred from the truck into a storage tank that is directly hooked up to the processing unit for direct injection in a closed system. If by tote, then the tote is directly hooked up for direct injection in a closed system. The totes and tank trucks are returned to the supplier and are maintained by the supplier. Refinery workers do not clean or service the totes and tank trucks. Cleaning and servicing are performed by the supplier and those conditions of use are accounted for in other sections of the risk evaluation.

PCE is used in continuous, closed processes, subject to multiple engineering controls to prevent exposures. As mentioned above, PCE is directly injected from a tote or storage tank into the closed processing unit. The tanks and totes are clearly labelled in accordance with Occupational Safety and Health Administration (“OSHA”) hazard communications standards. Transfers of PCE from tank trucks to storage tanks and changeout of totes are performed pursuant to comprehensive written procedures under strict PPE guidelines that include hardhats, gloves, goggles and/or face shields, and when appropriate, respirators. Both OSHA and DOT prescribe material handling requirements, including the requirement to wear PPE and train employees on the safe handling of hazardous substances/materials. Those requirements are typically fulfilled by owner/operators for refinery personnel and by employers (e.g., contractors, vendors, etc.) for those who are not direct employees of the owner/operator. These regulations function effectively to mitigate the risks of exposure from conditions of use applicable to PCE in refineries.

Hoses to transfer PCE from the tank truck to the storage tank are sealed, creating a closed system for the transfer. The storage tank has a sealed pipe or hose that directly injects the PCE into the processing unit. Likewise, hoses that transfer PCE from totes to processing units are sealed, creating a closed system. The only way a worker could be exposed to PCE during transfer is from an accidental spill or leak from a hose, which is very unlikely and not considered a normal condition of use. Accidental spills and leaks should not be considered in a risk evaluation under TSCA § 6.

Data on PCE changeout confirms that EPA's exposure estimates are clearly erroneous. For example, EPA assumes that changeout occurs 250 times per year; however, real world changeouts and potential exposure opportunities are significantly different. Consider, per AFPM members that use PCE, on average, the frequency that totes are switched out is 10 to 35 times per year. The duration of each changeout is approximately 15 minutes. The frequency of tank truck changeouts is anywhere from 2 to 12 times per year, with an average duration between 30 and 60 minutes each time. The variability in frequencies is due to each refinery being different in design, layout, and processing capacity. The actual frequency of PCE replenishment shows how

unrealistic EPA's use and exposure assumptions are for PCE as a catalyst regenerator at petroleum refineries.

IV. EPA Risk Evaluations of PCE and AFPM Engagement on the Issue

EPA's final risk evaluation for PCE did not take into account the unique conditions of use in petroleum refineries; rather, it generalized the use as a processing aid and not specifically as a catalyst regenerator. In its exposure models, EPA assumed that spills from hoses resulting in splashes to the skin occur 250 days per year (with one exposure event per workday). In EPA's modeling scenario that means a spill occurs every day that PCE is used, and the exposed workers just leave it on their skin without washing it off. The Agency's assumptions ignore fundamental industrial hygiene practices and procedures required by OSHA to protect workers. They are hypothetical scenarios that have no basis in reality and are arbitrary and capricious.

On July 29, 2021, AFPM member companies met with EPA staff and discussed process engineering for isomerization and catalytic reforming, as well as details on the frequency and duration of PCE use as a catalyst regenerator, including safety practices and PPE. AFPM members requested that since EPA was reopening the risk evaluation to incorporate its newly announced whole chemical approach and an assumption that no PPE is used (contrary to regulatory requirements), the Agency should incorporate the actual frequency and duration of transfers from storage containers to processing units and rerun the exposure models.

On May 5, 2022, AFPM members subsequently met with Assistant Administrator Freedhoff, and recapped the previous comments and discussions. Petroleum refiners again requested that EPA reopen the risk evaluation to incorporate the actual frequency and duration under the conditions of use and rerun the exposure models. EPA has refused to rerun the exposure models and use the correct information in the exposure assessment portion of the risk evaluation. In essence, EPA has refused to use the best available science, which is required under Sec. 26 of TSCA.

On August 1, 2022, AFPM and the American Petroleum Institute ("API") filed joint comments on the revised risk evaluation for PCE, again raising the issue that EPA's exposure assessment is based on faulty and unrealistic modeling assumptions.³

V. General Comments

a. The Proposed Requirements Impose Burdens on the Workplace Beyond the Owner/Operator's Control

In its 2020 risk evaluation for PCE, EPA incorrectly failed to distinguish between employers and owners/operators. These are not always the same entity. In those cases, AFPM is concerned that EPA is placing too much of the burden on the owner/operator. Sometimes, owners/operators are involved in, and understand, the employer's business, in which case they may require that the employer adhere to basic employee protection measures. In other situations, the owner/operator may not be involved in the details of the employer's business. In fact, the

³ See [AFPM and API comments](#) on the revised risk evaluation for perchloroethylene.

owner/operator may not even possess the sophistication to appreciate the details involved in the employer's business.

An example is when an operator hires a contractor to perform specialty work. In these cases, it is the contractor (acting as the employer) who possesses the training and knowledge to protect their employees. Requiring the owner/operator to implement the WCPP on behalf of the contractor is misplaced. The primary duty to protect employees from adverse workplace exposures rests with the employer; they have the knowledge and sophistication to ensure employee protection. This duty cannot be transferred to the owner/operator with an expectation that the owner/operator understands how to run the contractor's business.

AFPM is further concerned that issues of co-employment are created when owners/operators are required to dictate how a contractor runs their business, for example, by being responsible for implementing the WCPP for the employer. Contractors are hired because they possess skills and knowledge that are outside the owner/operator's abilities or capabilities. The employer, not the owner/operator, is clearly in the best position to direct work so as to ensure employees are protected.

b. Many of the Proposed Requirements are Duplicative of or Conflict with Other Agencies

The Proposed Rule duplicates requirements imposed by OSHA, DOT, and the National Institute for Occupational Safety and Health ("NIOSH"), and in some cases conflicts. For example, EPA proposes to require very specific respiratory protection. NIOSH is charged with making recommendations on respiratory protection, which are already in place for PCE, and OSHA is the regulatory authority for ensuring respiratory protection, which it already does for PCE. This could lead to confusion as to which regulatory standards and requirements to follow, especially if EPA's recommendations differ, like they do for the exposure limits.

AFPM recommends that EPA refer to existing regulations and standards as appropriate and not try to recreate these within its own rule. Additionally, in isolation one rule may not create a significant burden, but if a WCPP is required for every high-priority chemical that is found to have an unreasonable risk (most have so far), AFPM recommends significant streamlining of these requirements and allowing companies to choose how to demonstrate compliance within their own established recordkeeping practices.

VI. Specific Comments on the Proposed Rule

a. The Existing Chemical Exposure Limit ("ECEL") is Not Based on the Best Available Science

EPA is proposing an entirely new workplace exposure limit that is intended to supplant the current exposure limits established by other federal and state agencies. In the Proposed Rule, EPA discusses workplace exposure thresholds established by OSHA, NIOSH, the American Conference of Government Industrial Hygienists, and the California Division of Occupational Safety and Health, all of which, with the exception of OSHA, recommend a 25 parts per million

(“ppm”) workplace exposure threshold.⁴ OSHA’s standard is 100-ppm. The 25-ppm threshold established by the other agencies incorporates the standard 4-fold margin of safety employed by every agency except EPA. The Agency dismisses the use of the 4-fold threshold standard because it does not conform to EPA’s own guidance, which uses anywhere from a 30-fold to 100-fold margin of safety.⁵ EPA is proposing an ECEL of 0.14 ppm, which is 700-fold below OSHA’s workplace exposure limit and almost 200-fold lower than the other established standards that already incorporate a margin of safety.⁶

EPA states that the ECEL for PCE (0.14 ppm) is based primarily on two studies, Cavalerri et al., 1994, and Echeverria et al., 1995, both of which are epidemiological studies with very small sample sizes and subjective endpoints, such as “color confusion, impaired pattern recognition, and reaction time in pattern memory.”⁷ Neither study quantified the actual level of PCE in the study subjects; rather, both used air sampling to guess at what the dose values could be. There are myriad toxicological studies on PCE of varying quality. In the Proposed Rule EPA did not adequately compare the study designs or weight the studies, as instructed by Congress in TSCA Sec. 26,⁸ to provide an indication of why the Agency chose those two as the primary drivers for such a dramatic shift in workplace exposure thresholds.

AFPM does not support the proposed ECEL because it did not include a variety of stakeholder scientists who are experts in toxicology and/or industrial hygiene. AFPM recommends that EPA adopt the 25-ppm threshold used by all other agencies, as those thresholds were established through normal scientific review bodies. If EPA insists on its own threshold, it likely will confuse the regulated community as to which threshold should be followed. Instead, EPA should form a multistakeholder group of qualified scientists from the disciplines of toxicology and industrial hygiene, in conjunction with OSHA, to establish a workplace exposure limit that is based on the best available science and not rely on two epidemiological studies with very small sample sizes.

b. EPA Should Revise Certain Definitions

EPA proposes to define “direct dermal contact” as “direct handling of a chemical substance” or “skin contact with surfaces” that may be contaminated with the substance, which is confusing because direct handling in a petroleum refinery or petrochemical plant includes moving containers, transferring products, and other normal activities.⁹ Furthermore, contact with a surface that “may” be contaminated is difficult to verify at the time of contact. AFPM recommends that the definition be simplified to “contact with the skin.”

EPA proposes to define “exposure group” as “a group consisting of every person performing the same or substantially similar operations in each work shift, in each job

⁴ See 88 *Fed. Reg.* 39652. “[Perchloroethylene; Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39660.

⁵ *Id.*

⁶ *Id.* at 39672.

⁷ *Id.* at 39655 and 39659.

⁸ See U.S. Code 15 § 2625(h).

⁹ See 88 *Fed. Reg.* 39652. “[Perchloroethylene; Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39716.

classification, in each work area where exposure to chemical substances or mixtures is reasonably likely to occur.”¹⁰ AFPM recommends streamlining the definition for “exposure group” and adopting the approach used by industrial hygienists for a “Similar Exposure Group,” which is a “group of workers who have common risks and similar exposure profiles.”¹¹ This approach is preferred because it conforms with existing industrial hygiene vocabulary for exposure monitoring.

The definition for “ECEL action level” as a term should be generic, as opposed to the definition provided, which is “a concentration of airborne perchloroethylene of 0.07 part per million (ppm).”¹² Although this definition is in the subpart for PCE, the term “ECEL action level” is used for other chemicals as well. AFPM recommends either adding the chemical name to the term being defined (i.e., “PCE ECEL action level”), or using a general definition instead of the PCE-specific definition (e.g., “ECEL action level describes the concentration of a substance in air that triggers additional response”).¹³

c. EPA Should Include a De Minimis Level

In the Proposed Rule EPA includes a de minimis level of 0.1%. AFPM supports the inclusion of a de minimis level in this regulatory action and recommends using the term “mixtures and articles” instead of “products” to make the description more precise in a TSCA context.¹⁴ De minimis exemptions avoid situations where the Agency does not get overwhelmed with information that has little practical utility and allows EPA to focus its resources on concentrations that contribute the most to potential exposures.

d. EPA Should Allow More Flexibility in Exposure Monitoring for Conditions of Use That are Intermittent

EPA allows for a representative sample of exposures; however, the Agency proposes that samples be “on the basis of one or more full-shift exposure of at least one person” that represents the highest level of exposure over an 8-hour period.¹⁵ AFPM urges the Agency to allow for task-oriented sampling that can be extrapolated to an 8-hour exposure because PCE is only used on an intermittent basis at petroleum refineries. Otherwise, EPA’s proposed approach will further exaggerate the risk and degree of exposure on top of the unduly conservative exposure limits built into the proposal.

The Proposed Rule requires samples to be analyzed by laboratories that follow Good Laboratory Practices (“GLP”) as defined in 40 CFR Part 792. Not all industrial hygiene laboratories follow those standards, however, because GLP labs and those standards pertain to

¹⁰ *Id.*

¹¹ See “[Similar Exposure Groups can simplify Chemical Exposure Monitoring](#),” chemscape Safety Technologies. Published June 17, 2019, accessed August 11, 2023.

¹² See 88 *Fed. Reg.* 39652. “Perchloroethylene; Regulation Under the Toxic Substances Control Act (TSCA).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39717.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 39718.

health effects, environmental effects, and environmental fate testing.¹⁶ Industrial hygiene sampling falls outside that scope. EPA should allow other credentials that are germane to industrial hygiene laboratory practices such as accreditation from the American Industrial Hygiene Association (“AIHA”).

EPA is also proposing for owner/operators to “ensure that methods used to perform exposure monitoring produce results that are accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of perchloroethylene,” which is far too prescriptive. EPA should allow owner/operators to follow recognized, validated methods (e.g., NIOSH sampling and analytical methods) for exposure monitoring. For non-detects or if equipment malfunctions, EPA is proposing to require resampling within 15 days.¹⁷ There is no valid reason to require resampling for a non-detect. There is also no rationale offered by EPA for the 15-day time frame.

Conditions of use in refineries are intermittent and require flexibility for exposure monitoring programs. The requirement to “perform initial monitoring of potentially exposed persons regularly working in areas where perchloroethylene is present” should not apply to those working around closed systems because there is little to no potential for exposure.¹⁸ Furthermore, startups should not be subject to additional monitoring because there are no expected releases during a startup. Exposure monitoring in petroleum refineries should only occur when specific, intermittent tasks are performed to transfer PCE from storage containers to processing units.

EPA is proposing to require “each owner/operator to establish an initial baseline monitoring sample to determine the magnitude of exposure for all persons who may be exposed to PCE within 6 months after the date of publication of the final rule” (§ 751.607(b)(3)(ii)(B)).¹⁹ This initial monitoring must be completed by the end of the 6-month period. This is an untenable timeframe to conduct initial monitoring to establish what could be considered a baseline. At a minimum, 12 months should be allowed to establish the baseline, particularly because PCE is not used on a continual basis at petroleum refineries and only used intermittently, nor is it used for 8 hours. The initial monitoring needs to account for this non-continuous process without overestimating exposures. To achieve a meaningful baseline, the following tasks would need to be completed:

- Establish use schedules/deliveries at all sites (they are all different) to understand when this non-continuous activity would be occurring,
- Identify and purchase instrumentation,
- Identify and retain appropriate laboratories to conduct the required analysis, and,
- Test equipment to ensure functionality and accuracy.

The periodic monitoring requirements are too prescriptive because they pertain to conditions of use that occur with much greater frequency and duration than how PCE is used as a

¹⁶ See [40 CFR Part 792 – Good Laboratory Practice Standards](#).

¹⁷ See 88 *Fed. Reg.* 39652. “[Perchloroethylene: Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39718.

¹⁸ *Id.*

¹⁹ *Id.* at 39673.

catalyst regenerator. While the proposed requirements appear to be reasonable for a single chemical, the aggregate of subsequent WCPPs will be a significant burden. For those conditions of use that are intermittent, EPA should offer flexibility. AFPM offers to work with EPA to tailor monitoring requirements to the unique circumstances of the conditions of use as a catalyst regenerator in petroleum refineries.

The notification of monitoring results provisions is also very prescriptive and would be confusing to those working around closed systems that contain PCE. For example, it is not clear what the manner of PCE use is in an exposure scenario that involves a transfer to a closed system. The manner in which PCE is used as a catalyst regenerator does not result in exposures due to the closed system; however, in cases of accidental leaks or spills, exposures could result from transfers. It is difficult to discern which condition of use should be communicated. In addition, the method of delivery is too prescriptive and does not take electronic communication into consideration.

EPA calls for owner/operators to require respiratory protection in regulated areas and provide appropriate respirators. While owner/operators can, and do require respirators in appropriate situations, they rarely supply those respirators because the employers of the contractors and other non-employees provide PPE through their own safety programs.²⁰ The proposed 40 CFR § 751.607(b)(4) is duplicative of 29 CFR § 1910.34; therefore, EPA should just reference OSHA's Respiratory Protection Program.^{21,22}

Proposed 40 CFR § 751.607(d)(1)(B) should only set out regulatory requirements. It is obvious that in cases where the requirements are not being met that the regulated entity is out of compliance. EPA should delete the following:

“Where an owner or operator cannot demonstrate exposure below the ECEL, including through the use of engineering controls or work practices, and has not demonstrated that it has supplemented feasible exposure controls with respiratory protection that complies with the requirements of paragraph (f) of this section, this will constitute a failure to comply with the ECEL.”²³

Proposed 40 CFR § 751.607(d)(1)(E)(ii)(B) contains similar language so EPA should delete the following for the same reason:

“Where an owner or operator cannot demonstrate direct dermal contact is prevented, including through the use of engineering controls or work practices, and has not demonstrated that it has supplemented feasible exposure controls with dermal personal protective equipment that complies with the requirements of

²⁰ *Id.* at 39719.

²¹ *Id.*

²² See [29 CFR 1910.34](#).

²³ See 88 *Fed. Reg.* 39652. “[Perchloroethylene: Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39719.

paragraph (f) of this section, this will constitute a failure to comply with the direct dermal contact control requirements.”²⁴

e. The Proposed Exposure Control Plan Requirements are Too Prescriptive

In Unit IV.A.2.e.i., EPA proposes an incredibly complex and prescriptive exposure control plan. The requirements for the proposed plan include:

- Identification and rationale of exposure controls used or not used in the following sequence: elimination of PCE, substitution of PCE, engineering controls, and administrative controls to reduce exposures in the workplace to either at or below the ECEL or to the lowest level achievable and to prevent or reduce direct dermal contact with PCE in the workplace; the exposure controls selected based on feasibility, effectiveness, and other relevant considerations; if exposure controls were not selected, document the efforts identifying why these are not feasible, not effective, or otherwise not implemented; actions taken to implement exposure controls selected, including proper installation, maintenance, training or other steps taken;
- A description of any regulated area and how it is demarcated, and identification of authorized persons; and description of when the owner or operator expects exposures may be likely to exceed the ECEL;
- Regular inspections, evaluations, and updating of the exposure controls to ensure effectiveness and confirmation that all persons are implementing them as required;
- Occurrence and duration of any startup, shutdown, or malfunction of the facility that causes air concentrations to be above the ECEL or any direct dermal contact with PCE and subsequent corrective actions taken during startup, shutdown, or malfunctions to mitigate exposures to PCE; and
- Availability of the exposure control plan and associated records for potentially exposed persons.²⁵

The amount of information required in the previous paragraph for the proposed exposure control plans will inundate workers with information of little practical utility and make finding information difficult. The level of detail will make the plans unnecessarily cumbersome to navigate and risk workers missing information that is actually helpful. In the case of documenting startups, shutdowns, malfunctions, etc., the Proposed Rule confuses planning with recordkeeping. AFPM strongly urges EPA to work with stakeholders to streamline the exposure control plans so that they are easily navigable and provide useful information to workers.

²⁴ *Id.*

²⁵ See 88 *Fed. Reg.* 39652. “[Perchloroethylene: Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39678.

f. Training Requirements Must Account for Contractors Outside of the Owner/Operator’s Control

AFPM members support and conduct safety training on a continual basis and are renowned for their safety programs. Owner/operators should be afforded flexibility and an opportunity to verify training through a variety of means such as contractual agreements and confirmation from employers. Training should be performance-based and not prescriptive, as each condition of use is unique and may require more attention in certain areas or less attention in others. There are workers onsite (e.g., contractors and vendors) that may not be under the control of the owner/operator. In those cases, the employer is currently, and should be, responsible for safety training.

g. PPE Requirements Should Defer to OSHA

Proposed 40 CFR § 751.607(f) is duplicative of OSHA requirements found in 29 CFR Part 1910.34; therefore, EPA should delete the entire section and just reference the appropriate OSHA requirements so as not to infringe OSHA’s Congressionally authorized jurisdiction.^{26,27}

h. Changes to Safety Data Sheets (SDSs) Should Come from OSHA

Proposed 40 CFR § 752.611(c) would require language to be added to SDSs. Any change to SDS requirements should come from OSHA and not EPA.²⁸ There are also international standards that must be met under the Globally Harmonized System for Classification and Labelling of Chemicals under the United Nations.²⁹ AFPM urges the Agency to avoid mission creep wherever possible in this proposed rule, so as not to blur the lines of jurisdiction and confuse the regulated community.

i. GLP Should Not be Required in Recordkeeping for Exposure Monitoring

EPA is proposing to require recordkeeping for compliance with GLP practices for exposure monitoring. GLP applies to laboratory testing for health effects, environmental effects, and environmental fate. Industrial hygiene standards for exposure modeling are different, and EPA should allow for any number of approved monitoring methods (e.g., NIOSH, ACGIH, OSHA, AIHA, etc.) and refer to AIHA-accredited laboratories because AIHA is a standard-setting and accrediting body for exposure monitoring in the workplace.³⁰

²⁶ *Id.* at 39720.

²⁷ See [29 CFR 1910.34](#).

²⁸ See 88 *Fed. Reg.* 39652. “[Perchloroethylene: Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39722.

²⁹ See OSHA’s GHS Web Page.

³⁰ See 88 *Fed. Reg.* 39652. “[Perchloroethylene: Regulation Under the Toxic Substances Control Act \(TSCA\)](#).” EPA-HQ-OPPT-2020-0720; FRL-8329-02-OCSPP, published June 16, 2023. p. 39722.

j. ECEL and Direct Dermal Contact Control (“DDCC”) Records Should be Combined

The proposed 40 CFR § 751.613(b) has separate requirements for ECEL and DDCC records and many of those elements are redundant.³¹

ECEL record-keeping requirements include:

- Exposure control plan as described in § 751.607(d)(2)
- Notifications of exposure monitoring results
- The name, workplace address, work shift, job classification, work area and respiratory protection used by each potentially exposed person and PPE program implementation as described in § 751.607(f), including fit-testing and training
- Information and training provided by the regulated entity to each person prior to or at the time of initial assignment to a job involving potential exposure to perchloroethylene and any re-training as required in § 751.607(e)

DDCC record-keeping requirements include:

- Exposure control plan as described in § 751.607(d)
- Dermal protection used by each potentially exposed person and PPE program implementation as described in § 751.607(f), including
- The name, workplace address, work shift, job classification, and work area of each person reasonably likely to directly handle perchloroethylene or handle equipment or materials on which perchloroethylene may present and the type of PPE selected to be worn by each of these persons
- The basis for specific PPE selection
- Appropriately sized PPE and training
- Occurrence and duration of any direct dermal contact with perchloroethylene
- Training in accordance with § 751.607(f)(3)
- Information and training provided by the regulated entity to each person prior to or at the time of initial assignment to a job involving potential direct dermal contact with perchloroethylene and any re-training as required in § 751.607(e)

AFPM recommends that the records be combined to reduce duplicative records.

³¹ *Id.*

VII. Conclusion

AFPM appreciates the opportunity to comment on the proposed risk management rule for PCE. AFPM does not believe that the conditions of use from PCE as a catalyst regenerator pose an unreasonable risk; however, that will not preclude AFPM and its members from working constructively with the Agency to refine the risk management rule. AFPM looks forward to further dialog.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Cooper".

James Cooper
Senior Petrochemical Advisor