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2021

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Washington, DC 20006.  
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07/31/2024

This letter is an initial and final response from the United States Chemical Safety and Hazard Investigation Board (CSB) to your Freedom of Information Act (FOIA) request. The CSB FOIA office received your request on 01/04/2021 and assigned it control number CSB-2021-000044. Please cite this number in any future communications with our office regarding your request.

#### Requested Records

You requested the following:

A digital/electronic copy of the transition briefing document(s) (late 2020) prepared by CSB for the incoming Biden Administration.

#### Disposition of Request

Your request has been granted in full. In response, we have enclosed the briefing materials prepared in 2020 for the incoming administration under the Presidential Transition Act.

#### Appeals

You may appeal this response to the CSB's FOIA/Privacy Act Appeals Officer. Such an appeal must be made in writing and must be postmarked, or electronically transmitted, within 90 days of the date of this response letter. An appeal should include: a copy of your initial request; a copy of this letter; and a statement of the circumstances, reasons, or arguments supporting your position. The appeal should also clearly identify the adverse determination/s that is/are being appealed and the assigned request number. To ensure proper handling, you should mark an appeal letter and its envelope as a "FOIA Appeal." FOIA appeals should be submitted electronically, e-mailed to [foiaappeals@csb.gov](mailto:foiaappeals@csb.gov), or mailed to: ATTN: Office of the General Counsel/FOIA Appeals, Chemical Safety and Hazard Investigation Board, 1750 Pennsylvania Ave, NW, Suite 910, Washington, DC 20006.

#### Office of Government Information Services

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation (in other words, using OGIS services does not affect your right to pursue litigation). You may contact OGIS in any of the following

ways: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road - OGIS College Park, MD, 20740-6001. E-mail: [ogis@nara.gov](mailto:ogis@nara.gov). Web: <https://www.archives.gov/ogis>. Telephone: 202-741-5770. Fax: 202-741-5769. Toll-free: 1-877-684-6448. Please note that using OGIS services does not affect the timing of filing an appeal with the CSB's FOIA & Privacy Act Appeals Officer.

This response completes the CSB's processing of your request, which is now closed. Rachel McRae, FOIA Officer, is responsible for this response. If you have any questions about this response, feel free to contact me by telephone at: (202) 809-4871, or by e-mail at [rachel.mcrae@csb.gov](mailto:rachel.mcrae@csb.gov). Additionally, if you have any questions about our response to your request, you may contact our FOIA Public Liaison, Hillary Cohen, by phone at (202) 261-3601.

Sincerely,

//s//

Rachel K. McRae  
FOIA Officer  
Office of General Counsel

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## U.S. Chemical Safety and Hazard Investigation Board

November 1, 2020

Dear Agency Review Team:

This document provides a quick summary of the U.S. Chemical Safety and Hazard Investigation Board, which is an independent, non-regulatory agency.

**AGENCY:** U.S. Chemical Safety and Hazard Investigation Board

**LOCATION:** 1750 Pennsylvania Avenue, N.W., Suite 910  
Washington, DC 20006  
Telephone: 202-261-7600

**WEBSITE:** [www.csb.gov](http://www.csb.gov)

**MISSION:** Drive chemical safety change through independent investigation to protect people and the environment.

**VISION:** A Nation safe from chemical disasters.

**EMPLOYEES:** 34 Includes (1) Presidentially-Appointed Senate-Confirmed Appointee.

**FY21 BUDGET REQUEST:** \$13.140 Million

**ITEMS OF INTEREST:**

The agency currently has one Presidentially-Appointed Senate-Confirmed Chairman and CEO. There are also four vacant Board Member opportunities which require presidential appointment and senate confirmation. The agency is in a hiring phase to fulfill our investigations staffing requirements.



## U.S. Chemical Safety and Hazard Investigation Board

We currently have three active Inspector General matters. If additional information is required on IG actions, the Director of Administration will discuss with the transition team at a scheduled time. The agency has one active litigation matter. If additional information is required on litigation, the General Counsel will discuss with the transition team at a scheduled time.

The agency has an active Union. The Union representative will discuss matters with the transition team at an appropriate time, if required.

<b>SOCIAL MEDIA:</b>	<b>TWITTER</b>	<b>FACEBOOK</b>	<b>YOUTUBE</b>
<b>SUBSCRIBERS:</b>	8,515	16,248	145K

## Accomplishments

### Recent CSB Accomplishments

- **Toxic Chemical Gas Release (La Porte, TX):** On November 15, 2014, approximately 24,000 pounds of highly toxic methyl mercaptan were released from an insecticide production unit (Lannate® Unit) at the E. I. du Pont de Nemours and Company (DuPont) chemical manufacturing facility in La Porte, Texas. The release killed three operators and a shift supervisor inside a manufacturing building. They died from a combination of asphyxia and acute exposure (by inhalation) to methyl mercaptan. *The final investigation report was released on June 25, 2019.*
- **Onshore Oil Rig Explosion and Fire (Pittsburg County, OK):** On January 22, 2018, a blowout and rig fire occurred at Pryor Trust 0718 gas well number 1H-9, located in Pittsburg County, Oklahoma. The fire killed five workers who were inside the driller's cabin on the rig floor. They died from thermal burn injuries and smoke and soot inhalation. The blowout occurred about three-and-a-half hours after removing drill pipe from the well. The cause of the blowout and rig fire was the failure of both the primary barrier—hydrostatic pressure produced by drilling mud—and the secondary barrier—human detection of influx and activation of the blowout preventer—which were intended to be in place to prevent a blowout. *The final investigation report was released on June 12, 2019.*



## U.S. Chemical Safety and Hazard Investigation Board

- **Loss of Containment, Fires, and Explosions at Gas Plant (Pascagoula, MS):** On June 27, 2016, a major loss of containment resulted in the release of methane, ethane, propane, and several other hydrocarbons at the Enterprise Products Pascagoula Gas Plant in Pascagoula, Mississippi. The hydrocarbons ignited, initiating a series of fires and explosions that shut down the site for almost six months. Two workers on the night shift when the incident occurred were uninjured. Had the event happened during the day, when a larger number of personnel were working amid the process line, the consequences could have been much worse. Enterprise Products incurred \$10.4 million of expenses due to fire response activities and another non-cash loss of \$7.1 million as a consequence of this incident. *The final investigation report was released on February 13, 2019.*
- **Pressure Vessel Explosion (Philippi, WV):** On June 2017, two pressure vessel explosions occurred at the Midland Resource Recovery (MRR) facility in Philippi, West Virginia. Two workers were fatally injured, and another was severely injured during the first incident, which occurred on May 24, 2017. While the CSB was investigating that explosion, the MRR facility experienced a second explosion on June 20, 2017. The second explosion fatally injured a contractor employed to perform investigation and mitigation work at the facility following the original incident.

In addition to the chemical incident investigation recently completed, the CSB continues to conduct field work, analysis, and report writing on several major investigations. The CSB deployed to five new incidents, released four factual updates on ongoing investigations, and made significant progress in the completion of other open investigations. The agency has continued to focus on the completion of more timely investigation reports to ensure that critical safety recommendations can be released earlier to prevent catastrophic incidents.



## U.S. Chemical Safety and Hazard Investigation Board

### Deployments

- **Aghorn Energy Fatal Chemical Release (Odessa, TX):** On October 26, 2019, a release of hydrogen sulfide led to the deaths of one worker and one member of the public. *The CSB released an investigative factual update in July 2020.*
- **TPC Group Chemical Fire and Explosion (Port Neches, TX):** On November 27, 2019, an explosion and fire occurred at a chemical plant in Port Neches, Texas.
- **Watson Grinding Massive Explosion and Fire (Houston, TX):** On January 24, 2020, a massive explosion fatally injured two workers at a machining, grinding, lapping, and thermal spray coatings services company. The explosion caused extensive damage to nearby homes and businesses.
- **Wendland 1H Well Fatal Explosion (Burlison County, TX):** On January 29, 2020, a gas well explosion fatally injured three contract workers on an onshore drilling operation.
- **Bio-Lab Chemical Fire Following Hurricane Laura (Westlake, LA):** On August 27, 2020, a fire occurred at a chemical facility following landfall of Hurricane Laura. The fire led to a call for local residents to shelter-in-place.
- **Bio-Lab Decomposition Incident (Conyers, GA):** On Monday September 14, 2020, a thermal decomposition event occurred at the Bio-Lab facility in Conyers, GA. The company is a manufacturer of pool and spa treatment products. The company reported the thermal decomposition of a product that contained chlorine. No injuries were reported however Interstate Highway 20 was closed temporarily due to smoke produced from the event.
- **Evergreen Packaging Mill Fire (Canton, NC):** On Monday September 21, 2020, a fire occurred at the Evergreen Packaging Mill in Canton, NC. During a scheduled maintenance event, a fire occurred during a repair to a process unit. Two contractors were fatally injured as a result of the incident.



## U.S. Chemical Safety and Hazard Investigation Board

### Recommendations

The CSB's second strategic goal is to pursue safety change through safety recommendations, outreach, and education. Since its creation, the CSB has issued a total of 841 recommendations to industry, trade associations, standards-setting bodies, and state and Federal agencies to advance chemical safety practices. These recommendations are the CSB's primary tools for preventing future chemical incidents and mitigating consequences when they do occur; they drive positive, critical chemical safety change.

The implementation of CSB recommendations resulted in several significant safety improvements in FY 2020. Of the 841 recommendations, 701 (or 83%) have been closed and 140 (17%) are open. In FY 2020, the CSB advanced 12 recommendations from 8 completed investigations.

Of the recommendations addressed in FY 2020, one response from the Center for Chemical Process Safety (CCPS) stands out. On August 31, 2017, fires erupted at the Arkema Chemical Plant in Crosby, Texas, as a result of heavy rain from Hurricane Harvey. Plant equipment flooded and failed, causing chemicals stored at the facility to decompose and burn, releasing fumes and smoke into the air. Twenty-one people sought medical attention from reported exposures to the fumes. More than 200 residents living near the facility were evacuated and could not return home for a week.

The CSB's investigation found a significant lack of industry guidance on planning for flooding or other severe weather events, and called on the CCPS to produce such guidance so that incidents like the one at the Arkema plant can be prevented. In 2020, the CCPS released that guidance, called "Assessment of and Planning for Natural Hazards," which provides an updated approach for assessing natural hazards, means to address the hazards, and emergency planning.

The CSB issued a safety alert and video safety message applauding the CCPS and outlining specific procedures to assure safe restarts following a severe weather event. For example, facilities are urged to follow established startup procedures and checklists, and to recognize that "human performance may be compromised due to crisis conditions."

This guidance, and the CSB's outreach to promote it, is a prime example of how the CSB and its recommendations have a national life-saving impact across the industry.



## U.S. Chemical Safety and Hazard Investigation Board

### Safety Outreach and Collaboration

Throughout FY 2020, the CSB targeted its outreach to advance strategic safety topics described in the agency's *Drivers of Critical Chemical Safety Change Program*. This program identifies the most critical chemical safety improvements needed to protect both people and the environment. CSB staff use this program to direct outreach initiatives and ensure that the agency's limited resources are optimized to address the most critical chemical hazards facing the nation. Board Members and staff target these key issues at events across the country. Currently, the CSB has identified five drivers of critical safety change: 1) Combustible Dust Safety; 2) Process Safety Management for the 21st Century; 3) Emergency Planning and Response; 4) Preventive Maintenance, and 5) Safe Hot Work Practices.

The CSB developed and released several advocacy documents including a guidance document entitled "CSB Best Practice Guidance for Corporate Boards of Directors and Executives in the Offshore Oil and Gas Industry for Major Accident Prevention," which was released in April 2020. In May 2020, The CSB also published a document highlighting positive safety changes resulting from an investigation into a fatal explosion at an Airgas facility in Pascagoula, Florida, entitled "Implementation of a Safety Management System is Key to a Safer Chemical Industry."

In 2020, the CSB released several safety video products to view and download, free of charge, on its website and on YouTube. The video products released in FY 2020 include: **two full-length safety videos** detailing the findings from a fatal incident at an onshore drilling operation in Oklahoma; and a fatal incident at a paper mill in Louisiana. The CSB also **released three computer-generated animations** in early FY 2020. These included animations of the massive fires and explosion at a refinery in Superior, Wisconsin, a large explosion at a refinery in the highly populated City of Philadelphia. The CSB also released the updated animation of the BP Texas City incident to mark the **15-year anniversary** of the tragic explosion and fire that killed 15 workers and injured 170 others. In FY 2020 the CSB will release a new training module focused on the 2005 explosion and fire in Texas City, TX, that fatally injured 15 people. Since 2005 the CSB has produced **65 online animated videos** which are available on YouTube, with nearly 26 million total views and more than **100,000 subscribers**.



## U.S. Chemical Safety and Hazard Investigation Board

The CSB has also collaborated with other Federal agencies and safety organizations to advance shared safety goals. In August 2020, the CSB participated in the nationwide Safe + Sound Week, partnering with OSHA, the National Institute for Occupational Safety and Health (NIOSH), the National Safety Council, the American Society of Safety Professionals and the American Industrial Hygiene Association to raise awareness and understanding of the value of safety and health programs.



U.S. Chemical Safety and Hazard Investigation Board



# ORGANIZATIONAL OVERVIEW



# OVERVIEW

**The U.S. Chemical Safety & Hazard Investigation Board (CSB)** is an independent federal agency charged with investigating and determining the cause or probable cause of industrial chemical incidents resulting from the accidental release of a regulated or extremely hazardous substance into the ambient air. The CSB is headquartered in Washington, DC, has a field office in Denver, Colorado, and employees working remotely in Houston, Texas, and other locations. The CSB is governed by its Board, which consists of one presidentially-appointed Chairperson (who also serves as a Board Member) and four presidentially-appointed Board Members. All nominations to the Board are subject to Senate confirmation; each member serves a five-year fixed term.

*The mission of the CSB is to drive chemical safety change through independent investigations to protect people and the environment. Our vision is a nation safe from chemical disasters.*

In the execution of its core mission, the CSB conducts investigations of chemical incidents at fixed facilities such as chemical manufacturing sites, petroleum refineries, and aboveground storage facilities. The investigation process focuses on determining the causal factors that resulted in the accidental release. Causal factors often identify deficiencies in an organization's safety management system. The systems approach used by the CSB provides the agency with the opportunity to develop effective recommendations to correct the deficiencies identified in the investigation to prevent a reoccurrence of a similar incident. The agency makes recommendations to individual companies, regulatory agencies such as the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA), standard setting organizations, industry associations, and labor groups, but does not issue fines or citations. Congress designed the CSB to be non-regulatory and independent of other agencies so that its investigations might, where appropriate, review the effectiveness of regulations and regulatory enforcement.



## THE BOARD

The Chairperson exercises the executive and administrative functions of the agency. The Board is the Oversight body when it comes to the mission of the agency and is tasked with conducting voting and meeting activities in an efficient and orderly manner.

## OFFICE OF GENERAL COUNSEL

The Office of General Counsel (OGC) serves as the legal, regulatory and litigation support for the agency. OGC provides legal advice and assistance to the Board and its staff; prepare Board rules, opinions and/or orders; advise all office on matters of legal significance; and represent the Board in judicial matters to which the Board is a party or in which the Board is interested.

- The Ethics Program serves to ensure the CSB meets its obligations to the integrity of governmental decision-making and promote public confidence by identifying and addressing conflicts of interest through a continuing program; and to implement and comply with applicable laws and the regulations of the Office of Government Ethics (OGE).
- The FOIA Program serves to ensure the CSB meets its obligation to make available agency information and respond to requests for agency information in accordance with the requirements of the Freedom of Information Act.
- The Privacy Act Program serves to ensure the CSB meets its obligations to identify records and record systems containing private information, attempt to reduce the collection of private information, ensure private information is appropriately protected, and report instances in which private information is disclosed in accordance with the provisions of the Privacy Act (5 USC Part 552A).

# OFFICE OF ADMINISTRATION

The Office of Administration is comprised of the professional, administrative staff of the agency that supports the mission. The Office is responsible for providing overall organization and operational management support to improve agency performance and achieve the mission and goals of the agency.

## **The Office of Congressional, Public & Board Affairs**

Congressional and Public Relations functions to supply Congress, Federal, State, and local government agencies with information regarding the agency's activities, program, and objectives; supply the public, industry partners, and the news media with current, accurate, information concerning CSB's work, programs, and activities.

- Board Affairs functions to supply staff services to the Board including research to develop briefing documents on new and existing industry partners as well as coordinating and controlling internal and external communications directed to the Board.
- Public Affairs is responsible for the CSB's highly successful safety video program – CSB safety videos allow access to the board's highly technical investigation reports to millions of views. The CSB's safety video program has continued to gain success and allow viewers from across the world to view out information.

## **Office of Finance**

The Office of Finance serves to ensure the CSB meets its obligation to develop and implement financial plans that support accomplishment of the agency's mission in the most economical manner possible; establish and maintain financial management and accounting systems to include reporting and internal control; manage and administer acquisition/procurement including the award and administration of contracts or agreements, micro purchases, purchase cards, and travel costs; develop submit and execute an agency budget; and provides training for acquisitions/procurement, budget preparation, inventory and accounting to agency personnel.



### **Office of Human Resources**

The Office of Human Resources serves to ensure the CSB meets its obligations to select, develop, train, and manage a high-quality, productive workforce in accordance with merit system principles; and to implement and comply with the rules and regulations of the President, the Office of Personnel Management, and the laws governing the civil service within the agency.

### **Office of Information Technology**

The Office of Information Technology serves to ensure the CSB meets its obligations to: plan, acquire, and manage information technology (IT) in a secure manner that enhances mission accomplishment, improves work processes and employee productivity, provides sufficient protection for the privacy of personal information, promotes electronic government, and complies with all applicable federal laws and directives.

### **Records Management**

The Records and Information Management Program serves to ensure the CSB meets its obligations to make and preserve records containing adequate and proper documentation of the organizations, functions, policies, decisions, procedures, and essential transactions of the agency; establish systems for the effective and efficient management for records required to be preserved; and implement and comply with federal records laws and the regulations of the National Archives.

## **OFFICE OF INVESTIGATIONS AND RECOMMENDATIONS**

The Office of Investigations and Recommendations serves as the mission-critical unit of the agency. The Office serves to ensure the CSB fulfills its mission by reviewing and selecting incidents and hazards for investigation or study that are most likely to generate findings and/or recommendations with broad preventative impact.

- The Office of Investigations serves to investigate, determine and report to the public in writing the facts, conditions and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury, or substantial property damages.

- The Office of Recommendations oversees the recommendation development, issuance, and status change processes. The Office assists with developing recommendations that prevent chemical incident reoccurrence and mitigate chemical incident consequences. Then they communicate with recommendation recipients to encourage implementation, evaluate and document their progress, and propose status change action to the Board. Additionally, the Office oversees the Advocacy/Critical Drivers List program to determine what relevant preventative/consequence mitigating measures the Agency should prioritize for advocacy activities.

## EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

The Equal Employment Opportunity Program ensures the CSB meets its obligations to provide equal opportunity for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, disability, or genetic information; and to promote the full realization of equal employment opportunity through a continuing affirmative program; and to implement and comply with applicable laws and the regulations of the Equal Employment Opportunity Commission (EEOC).

## SAFETY & HEALTH PROGRAM

The Safety and Health Program, overseen by the Designated Agency Safety and Health Official (DASHO), serves to ensure the CSB meets its obligations to furnish each employee employment and a place of employment which are free of recognized hazards that are likely to cause serious physical injury harm or death, work to eliminate all hazards or mitigated as completely as possible, comply with Occupational Safety & Health Administration (OSHA) standards applicable to the CSB, and to acquire, maintain, and require the use of personal protective equipment (PPE) and safety equipment necessary to protect employees.





U.S. Chemical Safety and Hazard Investigation Board

## LEADERSHIP TEAM BIOS

# BOARD BIOGRAPHIES

U.S. Chemical Safety and Hazard Investigation Board



## CHAIRMAN



### **Katherine A. Lemos, PhD.**

#### **U.S. Chemical Safety and Hazard Investigation Board (CSB)**

Katherine A. Lemos, Ph.D. was nominated by President Donald Trump in June 2019 and confirmed by the Senate in March 2020.

Prior to her confirmation as Chairman and CEO of the U.S. Chemical Safety Board (CSB) Dr. Lemos served as Director for Northrop Grumman Corporation's Aerospace Sector, driving performance improvements across the product lifecycle with a focus on engagement early in the value stream.

As an expert in accident investigation, human decision-making and safety management, she is known for her innovative and strategic approaches leveraging advances in analytics and autonomy. She has a documented record of turning new technologies into solutions trusted by operators, overseers, and the public they serve.

Before joining Northrop Grumman in 2014, Dr. Lemos worked at the Federal Aviation Administration (FAA) as a technical leader and program manager in Aircraft Certification and Aviation Safety. Prior to this she worked for the National Transportation Safety Board (NTSB) as a Senior Human Performance Investigator in Aviation Safety, and then as Special Assistant to Vice Chairman of the Board.

In academia Dr. Lemos focused her research on decision-making, studying the influence of information and technology on beliefs and behaviors to more reliably yield safe outcomes during risky and uncertain conditions. In aviation, Dr. Lemos conducted applied research to balance the strengths of technology and humans for optimal performance. Dr. Lemos earned a B.B.A. from Belmont University, a M.S. from California Lutheran University, and a Ph.D. from the University of Iowa.

Throughout her career, Dr. Lemos has focused on improving safety and efficiency at the level of the individual and the organization. She has contributed individually as a researcher, professor and technical expert, and also contributed as a leader in managing programs and initiatives, bringing consensus and order to efforts that result in tangible safety and efficiency outcomes.

**Anna M. Brown, Director**  
**Office of Administration, U.S. Chemical Safety Board**



Anna M. Brown currently serves as the Director of Administration at the U.S. Chemical Safety & Hazard Investigation Board (CSB). As the Director, Ms. Brown supervises a multi-disciplinary administrative team that includes information technology, human resources, contracting, financial operations, records management, government and congressional affairs. She also serves as the Sustainability Officer, Security Officer, and Office of Inspector General Liaison.

Prior to the CSB, Ms. Brown worked at the Federal Aviation Administration as the National Airspace Information Monitoring System (NAIMS) Program Manager. Ms. Brown attained her bachelor's degree from the University of the District of Columbia and an M.B.A from Southeastern University.

Ms. Brown has over 40 years of Federal Government service and is affiliated with the National Association for Female Executives.

**Michele Lawson, Director, Financial Operations  
Office of Administration, U.S. Chemical Safety Board**



Michele Lawson is the Director of Financial Operations for the U.S. Chemical Safety and Hazard Investigation Board (CSB) located in Washington, DC. Mrs. Lawson has 20 years of Accounting experience which includes, Financial Reporting, Budget Formulation and Execution, Auditing, and, Financial Forecasting. Mrs. Lawson received her Bachelor of Science in Accounting from the University of Maryland and her Master of Arts in Communications from Trinity College. Mrs. Lawson joined CSB in March of this year; prior to joining CSB Mrs. Lawson served as the Deputy Director of Finance for the U.S. Trade and Development Agency.

Twelve of the twenty-years of Mrs. Lawson's Accounting career has been with the Federal Government. During this time, Mrs. Lawson has served as the Vice President of the Union, as well as the Black Affairs Program Manager, during her 7-year tenure with the Bureau of Prisons. Additionally, Mrs. Lawson served as the Union Representative for the U.S. Customs and Immigration Enforcement (ICE) agency while working as the Senior Accountant for their financial property division.

**Hillary Cohen, Communications Manager  
Office of Administration, U.S. Chemical Safety Board**



Hillary Cohen currently serves as the Communications Manager at the U.S. Chemical Safety and Hazard Investigation Board (CSB). As Communications Manager, Ms. Cohen manages the CSB's communication and congressional activities. Ms. Cohen oversees the CSB's safety video program as well as multiple contracts which enable production of the CSB's accident animations and hosting of the CSB's website.

Ms. Cohen has worked with the CSB for 15 years, June will mark her 15th year in Federal Service. Ms. Cohen received her undergraduate and graduate degree at American University in Washington, DC.

## **Stephen Klejst, Executive Director of Investigations and Recommendations Office of Investigations, U.S. Chemical Safety Board**



Stephen Klejst, the Executive Director of Investigations and Recommendations, joined the U.S. Chemical Safety Board (CSB) in February 2018. He is responsible for leading the agency's investigation and recommendations programs including the Drivers of Critical Chemical Safety Change advocacy program.

Mr. Klejst comes to the CSB after nearly ten years of experience with the National Transportation Safety Board where he was deputy managing director and director of the agency's Office of Railroad, Pipeline and Hazardous Materials Investigations. During his tenure with the NTSB, Mr. Klejst led the agency's investigation of several major pipeline and railroad accidents including the explosion of a natural gas transmission line in San Bruno, California, the rupture of a hazardous liquid transmission line in Marshall, Michigan and several significant freight railroad and transit rail accidents. Prior to joining the NTSB, Mr. Klejst had a distinguished executive career in the railroad industry with responsibilities in the areas of safety, accident investigation, regulatory compliance and technical training.

Mr. Klejst received his bachelor's degree in chemistry from the University of Pennsylvania and a Master of Science degree in management from the Stevens Institute of Technology. Mr. Klejst is a Certified Safety and Security Director.

## **Charles Barbee, Director of Recommendations Office of Investigations, U.S. Chemical Safety Board**



Charles B. Barbee currently serves as the Director of Recommendations for the U.S. Chemical Safety and Hazard Investigation Board (CSB). Director Barbee began serving in this capacity on August 8, 2016. He is responsible for the CSB's Recommendations Program as well as the Critical Drivers List and Advocacy Program. They include the development, issuance, tracking, prioritizing, advocacy, and closing of CSB Recommendations.

Prior to this position, Mr. Barbee was named the Chief of the Environmental Enforcement Division for the Department of the Interior's Bureau of Safety and Environmental Enforcement (BSEE) upon its inception on October 1, 2011, where he was primarily responsible for ensuring that all offshore operations on the United States and Arctic OCS were conducted in a clean and environmentally responsible manner.

Before his career as a government employee, Mr. Barbee served 23 years of active military duty with the U.S. Coast Guard. Mr. Barbee is a 1991 graduate of the U.S. Coast Guard Academy where he attained a B.S. in Government. He also earned a Master's Degree in Organizational Management from the University of Phoenix. He is married to Tina Barbee, has a son, Brandon, and two daughters, Sierra and Madison.

## **Thomas Goonan, General Counsel Office of General Counsel, U.S. Chemical Safety Board**



Mr. Thomas Goonan currently serves as the U.S. Chemical Safety and Hazard Investigation Board's (CSB), General Counsel.

Prior to joining the CSB in May of 2019, he served as the Chief Counsel of the Army's Natick Soldier Legal Office since January 2015. In that position Mr. Goonan provided legal advice and support to the NSSC Senior Commander, the Combat Capabilities Development Command-Soldier Center SES Director and staff, The Garrison Commander, and other senior Army leadership on the installation.

Mr. Goonan's experience includes over 30 years of service to the US Army, including 4 years of active duty as a member of the US Army Judge Advocate General's Corps. He has served as a Staff Judge Advocate in all three Army components and has had multiple assignments within the Army Materiel Command to include the US Army Test and Evaluation Command (TECOM), Armament Research, Development and Engineering Center (ARDEC), Surface Deployment and Distribution Command (SDDC), and Natick Soldier Systems Center (NSSC).

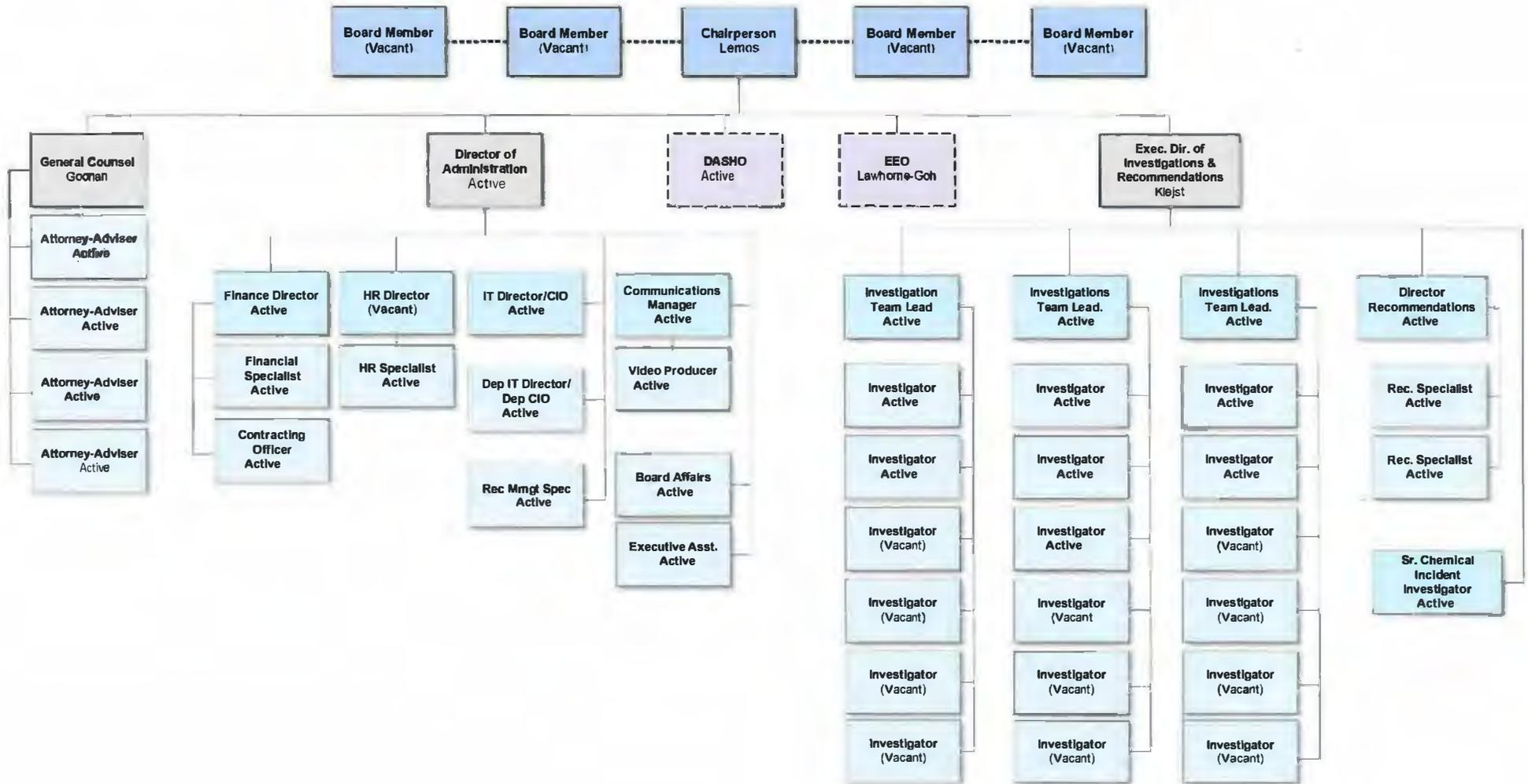
Immediately prior to returning to Natick, Mr. Goonan served as the Chief Counsel of the Army's 13,000 employee Research, Development and Engineering Command (RDECOM), Aberdeen Proving Ground, MD.

Mr. Goonan is a magna cum laude graduate of Norwich University and holds advanced degrees from New England School of Law, Johns Hopkins University, and the US Army War College. He has also completed the Army Materiel Command's Depot and Arsenal Executive Leadership Program (DAELP), the National Security Management Course at Syracuse University's Maxwell Graduate School, and the Senior Executives in National and International Security Course at Harvard University's Kennedy School of Government.

Mr. Goonan's awards and decorations include the Superior Civilian Service Award, Commander's Award for Civilian Service, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal (6th award), and Army Commendation Medal (4th award).

In 2015 Mr. Goonan received the Baltimore Federal Executive Board Bronze Award.

# U.S. Chemical Safety and Hazard Investigation Board



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U.S. CHEMICAL SAFETY BOARD  
2017-2021

# STRATEGIC PLAN





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“Our efforts to build trust internally and externally, and to increase productivity within the organization will serve as the foundation for the successful execution of our mission and goals.”

— **Vanessa Allen Sutherland**

Chairperson and CEO,

U.S. Chemical Safety and Hazard Investigation Board (CSB)

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# A MESSAGE FROM THE CHAIRPERSON OF THE CSB



It is my pleasure to present the U.S. Chemical Safety Board (CSB) *2017–2021 Strategic Plan* on behalf of my fellow Board Members and the CSB professional staff. The staff and stakeholder contribution to this strategic plan over the past 18 months has been invaluable as the agency continues to examine emerging chemical safety hazards and help drive chemical safety improvements.

The *2017–2021 Strategic Plan* is a blueprint for CSB priorities. This plan allows us to judiciously allocate our resources to achieve our strategic goals and to promote accountability for our safety mission. It is a living document that will provide flexibility in executing the mission as circumstances change. My goals for this plan are to promote a nimble agency focused on reaching broader audiences, to deliver innovative and persuasive safety products that help drive chemical safety improvements, and to become a premier Federal resource for chemical safety knowledge.

Over the next four years, I will continue to strive to create consistency with a special focus on organizational efficiency and health. Our efforts to build trust internally and externally, and to increase productivity within the organization will serve as the foundation for the successful execution of our mission and goals. The strategic plan will help assure focus as the CSB works to complete timely investigations of chemical incidents and influence chemical safety for the better.

With the successful execution of our mission, the CSB will continue to share critical safety lessons with industry, workers, and the public. We have a responsibility to create a nation safe from chemical disasters. I look forward to building stronger relationships with stakeholders while collaborating to achieve such a vision.

A handwritten signature in black ink that reads "Vanessa Allen Sutherland". The signature is fluid and cursive, with the first name being the most prominent.

Vanessa Allen Sutherland  
Chairperson and CEO  
U.S. Chemical Safety and Hazard Investigation Board

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# MISSION, VISION AND STRATEGIC GOALS



## MISSION

Drive chemical safety change through independent investigations to protect people and the environment.

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## VISION

A nation safe from chemical disasters.

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## STRATEGIC GOALS

Advancing the mission in three ways.



**GOAL 1:** Prevent recurrence of significant chemical incidents through independent investigations.

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**GOAL 2:** Advocate safety and achieve change through recommendations, outreach, and education.

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**GOAL 3:** Create and maintain an engaged, high-performing workforce.

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# EXECUTIVE SUMMARY

To best serve the public and our stakeholders over the next five years, the U.S. Chemical Safety and Hazard Investigation Board (CSB) staff and Board Members changed the focus of the agency's mission and vision statements and developed new core values. **Our mission is to drive chemical safety change to protect people and the environment.** By working to execute this mission, we also seek to achieve a broader vision to create a nation safe from chemical disasters.

To achieve both the mission and the vision, we will conduct objective, independent investigations that display technical rigor at all stages—from deployment, to report release and follow-up on recommendations, to long-term advocacy. To support our efforts, we have developed strategic goals to improve our investigations, recommendations, outreach, and CSB human capital.

Specifically, we will strategically select incidents for investigation that are likely to yield products that inform many more stakeholders than just the companies and communities directly involved in the incidents.

We also will work with stakeholders from industry, labor, and the non-profit sector, as well as Federal, state, and local governments, among others, to champion continual improvement in

the chemical industry and to disseminate lessons learned. We will use a variety of tools to convey these messages, including our reports, in-person attendance at advocacy events, website and social media presence, safety alerts, and our popular safety videos, some of which are available with subtitles in other languages.

Perhaps most importantly, we will work to support our greatest resource—the CSB staff—to champion the same continual improvement that we expect from the companies involved in our investigations. We will continue to fine tune and streamline our internal processes, performance metrics, and professional development program so CSB staff may dedicate their time and attention to completing work that can help prevent chemical disasters.

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# CORE VALUES

To support our vision and mission, we have redefined our core values. To achieve our goals, we must continually communicate and uphold these values across the organization.



**OBJECTIVITY:** Conduct investigations that collect, review, and analyze evidence without seeking to blame or find fault.

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**TECHNICAL RIGOR:** Perform thorough research, analysis, and reviews that contribute to well-designed, thoughtful, accurate, and reliable work products.

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**INTEGRITY:** Promote honesty, fairness, and consistency in our words and actions.

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**COLLABORATION:** Support coalition building, teamwork, and resource-sharing internally and externally, including with current agency stakeholders and potential stakeholders.

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**DEDICATION:** Demonstrate commitment to the employees and the stakeholders whom we serve.

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**CONTINUAL IMPROVEMENT:** Create an internal culture that seeks to learn from all experiences, acquires new knowledge, considers all viewpoints, sets new goals, and applies lessons learned.

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# BACKGROUND AND LEGISLATIVE MANDATE

The U.S. Chemical Safety and Hazard Investigation Board (CSB) is an independent Federal agency established to investigate incidents and hazards resulting from the production, processing, and handling of chemical substances that can cause death, serious injury, or substantial environmental or property damage. Congress created the CSB as a part of the Clean Air Act Amendments of 1990, but the agency did not commence operations until 1998.

The CSB is headquartered in Washington, DC, with a regional office in Denver, Colorado. It is governed by its Board, which consists of one presidentially nominated Chairperson (who also serves concurrently as an appointed Board Member) and four other presidentially nominated Board Members. All nominations by the President of the United States to the Board are subject to U.S. Senate confirmation. Once confirmed, each new member is eligible to serve a five-year fixed term.

The CSB's charge is to investigate significant chemical incidents and hazards and advocate for the implementation of recommendations to protect workers, the public, and the environment.

Since the CSB began operations, the agency has published written safety products and produced award-winning safety videos. In total, the CSB has deployed to 148 incidents, published 92 investigation reports, case studies, safety bulletins and

hazard studies, produced 67 video products, and closed 593 of a total of 784 safety recommendations (76%).<sup>1</sup>

CSB investigations are independent, meaning they are not subject to the control, review, or influence of any other Federal agency or outside entity. CSB investigations can address all aspects of chemical incidents: direct and proximate causes (e.g., equipment failures), underlying systemic and organizational causes (e.g., inadequacies in corporate or facility-level safety management systems and organizational culture), and opportunities to improve operational practices, regulatory standards and enforcement. The CSB issues safety recommendations to a variety of recipients, including Federal and state regulatory agencies, companies, industry and labor organizations, standard-setting bodies, and emergency responders.

<sup>1</sup> As of September 8, 2016.



In the CSB's investigative work, the agency has identified recurrent chemical safety issues and hazards, critical industry trends, and common lessons learned. These topics include: toxic chemical handling (e.g., hydrogen fluoride, chlorine, ammonia, and phosgene), hazards of combustible dust, reactive chemicals, oil and gas production, and hot work activities (e.g., welding).

Despite its U.S. mandate and domestic focus, the CSB has had a global impact on chemical safety. CSB recommendations for industry best practices have been adopted in many countries over the past decade, contributing to enhanced worldwide process safety knowledge. The CSB's investigative reports and safety videos are used extensively around the world, particularly in countries with established chemical and oil

industry sectors. The CSB receives requests for safety briefings from stakeholders in North America, Australia, Europe, South America, Africa, and Asia.

CSB safety videos have been subtitled in Spanish, French, Korean, and Chinese for dissemination to a broad audience. The videos are regularly featured in industry-developed training seminars designed to educate workers about process safety and occupational health. The videos are also used in labor organization and academic training programs around the world.

Moreover, through the implementation of the CSB's "Drivers of Critical Chemical Safety Change" program, the CSB pursues needed safety changes in key focus areas. This work is highlighted by Board Member and staff



presentations at national chemical safety conferences, and through publication of papers in professional journals and editorial pieces in local, state, and national media.

Chemical safety information is also transmitted through the Board's regularly scheduled business meetings, which are held no less than quarterly in Washington, DC, and are open to the public.

Top: A view of the Delaware City Refining Company—the CSB is investigating a series of three incidents that occurred at the facility in 2015.

Right: CSB Chairperson Vanessa Allen Sutherland addresses media at a news conference in Waco, TX.



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# STRATEGIC GOAL 1



Prevent recurrence of significant chemical incidents through independent investigations.

**GOAL CONTEXT:** The CSB must select incidents to investigate that will have the greatest impact on U.S. workplaces, public health and safety, and the environment. Because of the large number of incidents that occur each year, the CSB must exercise discretion when deciding whether to initiate an investigation. To that end, the agency uses a screening process to systematically evaluate and prudently select chemical incidents for investigation. The CSB will continue to refine screening criteria and information-gathering activities to improve its deployment decisions and effective resource allocations. The agency will enhance its techniques and processes to complete investigations in a timely manner, while ensuring that key safety issues are addressed thoroughly in the resulting products.

## OBJECTIVES



**OBJECTIVE 1.1.** Select for investigations those incidents and hazards that are most likely to generate recommendations or findings with broad preventive impact.

The strategic selection of incidents will allow the agency to allocate its resources in a manner that promotes efficiency and leads to the development of high impact recommendations or broadly applicable findings. In addition, the CSB will continue to collect data to identify and analyze existing industry hazards. The CSB, per its legislative mandate, may then conduct broad safety studies of such hazards to examine commonalities among significant incidents and draw attention to key lessons learned.

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### Why This Strategy Will Work

The CSB's commitment to the strategic selection and timely completion of chemical incident investigations will allow the agency to issue independent, technical investigation reports and recommendations with broad preventive impact, thereby informing all stakeholders of lessons learned and driving change for the prevention and mitigation of future incidents.



A view of the Exxon Refinery in Torrance, CA, following a 2015 explosion.

 **OBJECTIVE 1.2.** Complete timely, high-quality investigations that determine the causes of incidents.

The CSB will revise, update, and improve investigation-related Board Orders. We will engage in a prioritized effort to develop protocols and procedures that can further advance the timeliness and quality of the products of our investigations.

 **OBJECTIVE 1.3.** Develop and issue recommendations with broad preventive impact.

The CSB will strive to help achieve incident prevention by issuing recommendations to a variety of parties that are most likely, or most influential, to create safety change, including government entities, safety organizations, trade unions, trade associations, corporations, emergency response organizations, and educational institutions.

#### STRATEGIC GOAL 1 PERFORMANCE MEASURES

##### MEASURE

Number of deployments made to high-consequence incidents

Percentage of deployments resulting in the completion of a CSB product or included as part of a data set used in a CSB product or communication tool

Average time to complete an investigation

Percentage of investigations completed within established time period

Percentage of recommendations issued or reissued that are classified as High-Impact

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# STRATEGIC GOAL 2



Advocate safety and achieve change through recommendations, outreach, and education.

**GOAL CONTEXT:** The CSB’s safety recommendations, as well as the investigative facts and findings from which the recommendations are derived, are the conduits through which chemical safety change can be achieved.

The CSB’s objective is to share its findings and recommendations with as wide an audience as possible, while also directing advocacy efforts to those stakeholders who have the greatest responsibility and capability to enact and promote them. Therefore, the CSB collaborates with other organizations to spread its safety message and to maximize the impact of agency resources. The agency uses various outreach mechanisms

to promote its chemical safety information and disseminate updates on recommendations’ status, product releases, new initiatives, and public events. The agency identified a list of “Drivers of Critical Chemical Safety Change” to guide the efficient use of limited resources to pursue the implementation of changes that are most likely to achieve important, national-level safety improvements.

CSB investigation reports and safety videos make the Board’s investigative findings available to millions of people worldwide. They are available free-of-charge at [www.csb.gov](http://www.csb.gov).

## Why This Strategy Will Work

The CSB’s targeted advocacy for chemical safety change will allow the agency to use its resources strategically to promote actions that could have the greatest, most widespread preventive effects. This approach will not only allow the CSB to nimbly respond to changing industry conditions and emerging technology, but also provide a framework for prioritizing both long-term and short-term agency goals.

## OBJECTIVES

 **OBJECTIVE 2.1.** Pursue the implementation of recommendations, with focused effort on those designated as high-impact.

In addition to effective communication with recommendations recipients, develop and maintain collaborative relationships with other agencies, industry, scientific, non-profit, and labor entities that are “agents of change” for chemical safety. Board Members and staff will assist the Office of Recommendations in outreach efforts and relationship-building, targeted toward implementation of CSB recommendations.

 **OBJECTIVE 2.2.** Identify and strategically promote key chemical safety issues.

The CSB must identify and communicate key investigative findings to workers, industry, and the public. Communication strategies above and beyond investigative reports include: participation in public forums, symposia, and conferences on emerging safety issues, whether hosted by

regulators, industry, workforce, experts, or other stakeholders; the production of thematic safety videos and video safety messages; the publication of articles relevant to CSB investigation findings; a presence on social media; and the development of electronic resources related to these critical topic areas.

 **OBJECTIVE 2.3.** Disseminate chemical safety information using a variety of high-visibility tools and products.

The CSB will use a variety of creative, high-visibility tools and products including: investigation reports; public meetings and news conferences to share investigation findings and safety recommendations held in the communities affected by chemical incidents; regular business meetings in Washington, DC, to update stakeholders on current agency initiatives; scholarly publications to educate others on critical safety topics; safety videos to disseminate lessons in a widely-accessible format; public discourse to engage with all stakeholders; and strategic use of social media to promote investigation findings, high-impact recommendations, and ongoing safety initiatives.

### STRATEGIC GOAL 2 PERFORMANCE MEASURES

#### MEASURE

Number of recommendations successfully closed

Number of advocacy activities and initiatives completed by the Board and staff to advance chemical safety improvements

Number of safety videos produced

Number of safety videos viewed, website views, and publications downloaded

Number of outcome-oriented safety results or actions taken by stakeholders (e.g., industry or regulatory standard revised on account of CSB investigative finding)

Number of targeted advocacy initiatives focusing on the Drivers of Critical Chemical Safety Change Program

Number of outreach requests received and completed

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# STRATEGIC GOAL 3



Create and maintain an engaged, high-performing workforce.

**GOAL CONTEXT:** CSB employees are the agency's most valuable resource. Goal 3 seeks to optimize our human capital resources to advance the agency's mission. Proper use of employee skills will best serve the public and the CSB. The CSB strives for continual improvement to promote organizational efficiency throughout the agency. Creating revised and renewed CSB policies, procedures, and training will also help improve productivity and encourage adherence to the CSB's core values and Code of Conduct. This approach, along with strong managerial skills, will foster an open environment that empowers employees to contribute varied ideas and solutions to their work.

## OBJECTIVES

 **OBJECTIVE 3.1.** Implement effective recruiting, targeted retention, and skills-based training and mentorship.

To achieve these significant human capital goals, the agency will employ and update onboarding platforms, career ladders, individual development plans, Office of Personnel Management assessments, award and recognition programs, and skills-based training on both group and individual levels. The goal of these efforts is to provide employees with the skills needed to help the CSB run effectively, which will also promote the retention of talented employees.

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### Why These Strategies Will Work

CSB employees have asked for more direction, clarity, and support. The approaches we will use are based on sound organizational development principles that have been demonstrated to improve employee engagement, which in turn will foster positive performance. The CSB has recommended that companies review and make adjustments to their organizational cultures to promote safety and continual improvement. Over the next five years, the agency will apply the same process to its own operations to improve organizational effectiveness, which should enhance the agency's ability to drive safety change.

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# CODE OF CONDUCT

We the employees of the CSB will treat each other with mutual respect by:



Conducting ourselves in a highly professional manner.

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Communicating constructively and often.

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Treating others as you want to be treated.

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Valuing teamwork.

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Taking personal responsibility for making the CSB a supportive, productive and positive working environment.

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Building trusting relationships.

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Working collaboratively, include others when appropriate.



 **OBJECTIVE 3.2. Encourage management development and leadership at all levels.**

In this initiative, the CSB will pilot a uniform series of new communications and leadership courses. The agency will incorporate a management skills development program for managers and prospective leaders. This program will emphasize the importance of holding managers accountable for making sound decisions and reward those who do. Management accountability will also be a critical element in all supervisors' and managers' performance plans. Ultimately, the objective of this program will be to create standard expectations for all agency managers and prospective managers.

 **OBJECTIVE 3.3. Strategically allocate resources across the organization.**

The CSB will strategically allocate financial, personnel, and information technology resources to best achieve the agency's mission. Budget forecasting will closely align with action planning that

details the implementation of each strategic goal and objective outlined in this Strategic Plan. The agency's recent organizational assessments, IT Capital Plan, and Human Capital Plan will all be reviewed and reinvigorated to achieve or exceed metrics identified in annual agency action plans.

 **OBJECTIVE 3.4. Strengthen operational performance and project management efforts.**

The agency will achieve improved operational performance by adhering to agency and departmental action plans and making resource determinations based on their potential to advance the CSB strategic goals. Using performance metrics identified in this plan, the agency will create realistic sub-goals with metrics, milestones and targets for each action plan item.

*The CSB is looking forward to continuing its efforts to drive safety change through the successful implementation of its 2017–2021 Strategic Plan.*

**STRATEGIC GOAL 3 PERFORMANCE MEASURES**

**MEASURE**

- Number of and time taken to fill open positions with new CSB hires
- Percentage of onboarding and mentoring plans implemented, by office
- Percentage increase of selected Federal employee viewpoint survey results
- Percentage of high-performing employees retained
- Number of diversity recruiting and retention efforts completed
- Percentage of positive participant reviews of management skills "core curriculum" courses
- Percentage of managers' performance standards that include management responsibilities to improve accountability and reward sound management practices
- Percentage of departmental action plans, linked to agency action plan, completed and implemented annually

Top: Don Holmstrom, Director of the CSB's Western Regional Office, speaks to plant personnel in Contra Costa County, CA. Bottom left: CSB Investigator Mark Wingard and contractors examine a piece of equipment during testing. Bottom right: CSB investigators examine the scene of a massive fire and explosion at the Enterprise Gas Plant in Pascagoula, MS.

U.S. Chemical Safety and Hazard Investigation Board  
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under subchapter VI shall be subject to regulations under this subsection. The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b).

**(4) Factors to be considered**

In listing substances under paragraph (3), the Administrator—

(A) shall consider—

(i) the severity of any acute adverse health effects associated with accidental releases of the substance;

(ii) the likelihood of accidental releases of the substance; and

(iii) the potential magnitude of human exposure to accidental releases of the substance; and

(B) shall not list a flammable substance when used as a fuel or held for sale as a fuel at a retail facility under this subsection solely because of the explosive or flammable properties of the substance, unless a fire or explosion caused by the substance will result in acute adverse health effects from human exposure to the substance, including the unburned fuel or its combustion byproducts, other than those caused by the heat of the fire or impact of the explosion.

**(5) Threshold quantity**

At the time any substance is listed pursuant to paragraph (3), the Administrator shall establish by rule, a threshold quantity for the substance, taking into account the toxicity, reactivity, volatility, dispersibility, combustibility, or flammability of the substance and the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health for which the substance was listed. The Administrator is authorized to establish a greater threshold quantity for, or to exempt entirely, any substance that is a nutrient used in agriculture when held by a farmer.

**(6) Chemical Safety Board**

(A) There is hereby established an independent safety board to be known as the Chemical Safety and Hazard Investigation Board.

(B) The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation. The terms of office of members of the Board shall be 5 years. Any member of the Board, including the Chairperson, may be removed for inefficiency, neglect of duty, or malfeasance in office. The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

(C) The Board shall—

(i) investigate (or cause to be investigated), determine and report to the public

in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages;

(ii) issue periodic reports to the Congress, Federal, State and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administrator under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act [29 U.S.C. 651 et seq.] to prevent or minimize the consequences of any release of substances that may cause death, injury or other serious adverse effects on human health or substantial property damage as the result of an accidental release; and

(iii) establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

(D) The Board may utilize the expertise and experience of other agencies.

(E) The Board shall coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall not be authorized to investigate marine oil spills, which the National Transportation Safety Board is authorized to investigate. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where an accidental release causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

(F) The Board is authorized to conduct research and studies with respect to the potential for accidental releases, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent prac-

licable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

(G) No part of the conclusions, findings, or recommendations of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

(H) Not later than 18 months after November 15, 1990, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances which are not regulated substances (including threshold quantities for such substances) and categories of stationary sources for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to include in any hazard assessment. The Board shall also make recommendations with respect to the role of risk management plans as required by paragraph (8)(B)<sup>6</sup> in preventing accidental releases. The Board may from time to time review and revise its recommendations under this subparagraph.

(I) Whenever the Board submits a recommendation with respect to accidental releases to the Administrator, the Administrator shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;<sup>6</sup>

(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

(J) The Board may make recommendations with respect to accidental releases to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recom-

mendation by the Administrator<sup>7</sup> shall indicate whether the Secretary will—

(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;<sup>6</sup>

(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.

(K) Within 2 years after November 15, 1990, the Board shall issue a report to the Administrator of the Environmental Protection Agency and to the Administrator of the Occupational Safety and Health Administration recommending the adoption of regulations for the preparation of risk management plans and general requirements for the prevention of accidental releases of regulated substances into the ambient air (including recommendations for listing substances under paragraph (3)) and for the mitigation of the potential adverse effect on human health or the environment as a result of accidental releases which should be applicable to any stationary source handling any regulated substance in more than threshold amounts. The Board may include proposed rules or orders which should be issued by the Administrator under authority of this subsection or by the Secretary of Labor under the Occupational Safety and Health Act [29 U.S.C. 651 et seq.]. Any such recommendations shall be specific and shall identify the regulated substance or class of regulated substances (or other substances) to which the recommendations apply. The Administrator shall consider such recommendations before promulgating regulations required by paragraph (7)(B).

(L) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by subparagraph (C)—

(i) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of extremely hazardous substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

(ii) upon presenting appropriate credentials and a written notice of inspection authority, enter any property where an accidental release causing a fatality, serious injury or substantial property damage has occurred and do all things therein necessary

<sup>6</sup>So in original. Probably should be paragraph "(7)(B)".

<sup>6</sup>So in original. The word "or" probably should appear.

<sup>7</sup>So in original. The word "Administrator" probably should be "Secretary".

for a proper investigation pursuant to subparagraph (C) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided in the Occupational Safety and Health Act [29 U.S.C. 661 et seq.].

(M) In addition to that described in subparagraph (L), the Board may use any information gathering authority of the Administrator under this chapter, including the subpoena power provided in section 7607(a)(1) of this title.

(N) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 6101 of title 41 to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

(O) After the effective date of any reporting requirement promulgated pursuant to subparagraph (C)(iii) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such subparagraph. The Administrator is authorized to enforce any regulation or requirements established by the Board pursuant to subparagraph (C)(iii) using the authorities of sections 7413 and 7414 of this title. Any request for information from the owner or operator of a stationary source made by the Board or by the Administrator under this section shall be treated, for purposes of sections 7413, 7414, 7416, 7420, 7603, 7604 and 7607 of this title and any other enforcement provisions of this chapter, as a request made by the Administrator under section 7414 of this title and may be enforced by the Chairperson of the Board or by the Administrator as provided in such section.

(P) The Administrator shall provide to the Board such support and facilities as may be necessary for operation of the Board.

(Q) Consistent with subsection<sup>a</sup> (G) and section 7414(c) of this title any records, reports or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned

with carrying out this chapter or when relevant under any proceeding under this chapter. This subparagraph does not constitute authority to withhold records, reports, or information from the Congress.

(R) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Secretary of Labor, the Administrator, or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No report of the Board shall be subject to review by the Administrator or any Federal agency or to judicial review in any court. No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress. In the performance of their functions as established by this chapter, the members, officers and employees of the Board shall not be responsible to or subject to supervision or direction, in carrying out any duties under this subsection, of any officer or employee or agent of the Environmental Protection Agency, the Department of Labor or any other agency of the United States except that the President may remove any member, officer or employee of the Board for inefficiency, neglect of duty or malfeasance in office. Nothing in this section shall affect the application of title 5 to officers or employees of the Board.

(S) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the Secretary of Labor or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

#### (7) Accident prevention

(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this paragraph may make distinctions between various types, classes, and kinds of facilities, devices and systems taking into consideration factors in-

<sup>a</sup> So in original. Probably should be "subparagraph"

cluding, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any stationary source. Regulations promulgated pursuant to this subparagraph shall have an effective date, as determined by the Administrator, assuring compliance as expeditiously as practicable.

(B)(i) Within 3 years after November 15, 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases. The Administrator shall utilize the expertise of the Secretaries of Transportation and Labor in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release of a regulated substance in order to protect human health and the environment. The regulations shall cover storage, as well as operations. The regulations shall, as appropriate, recognize differences in size, operations, processes, class and categories of sources and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall be applicable to a stationary source 3 years after the date of promulgation, or 3 years after the date on which a regulated substance present at the source in more than threshold amounts is first listed under paragraph (3), whichever is later.

(ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

(I) a hazard assessment to assess the potential effects of an accidental release of any regulated substance. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases;

(II) a program for preventing accidental releases of regulated substances, including safety precautions and maintenance, mon-

itoring and employee training measures to be used at the source; and

(III) a response program providing for specific actions to be taken in response to an accidental release of a regulated substance so as to protect human health and the environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this subparagraph, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

(iii) The owner or operator of each stationary source covered by clause (ii) shall register a risk management plan prepared under this subparagraph with the Administrator before the effective date of regulations under clause (i) in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subparagraph shall also be submitted to the Chemical Safety and Hazard Investigation Board, to the State in which the stationary source is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 7414(c) of this title. The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revision in risk management plans to assure that the plans comply with this subparagraph. Each such plan shall be updated periodically as required by the Administrator, by rule.

(C) Any regulations promulgated pursuant to this subsection shall to the maximum extent practicable, consistent with this subsection, be consistent with the recommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI) or the American Society of Testing Materials (ASTM). The Administrator shall take into consideration the concerns of small business in promulgating regulations under this subsection.

(D) In carrying out the authority of this paragraph, the Administrator shall consult with the Secretary of Labor and the Secretary of Transportation and shall coordinate any requirements under this paragraph with any requirements established for comparable purposes by the Occupational Safety and Health Administration or the Department of Transportation. Nothing in this subsection shall be interpreted, construed or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction and operation of facilities licensed by the Nuclear Regulatory Commission.

(E) After the effective date of any regulation or requirement imposed under this subsection,

it shall be unlawful for any person to operate any stationary source subject to such regulation or requirement in violation of such regulation or requirement. Each regulation or requirement under this subsection shall for purposes of sections 7413, 7414, 7416, 7420, 7604, and 7607 of this title and other enforcement provisions of this chapter, be treated as a standard in effect under subsection (d).

(F) Notwithstanding the provisions of subchapter V or this section, no stationary source shall be required to apply for, or operate pursuant to, a permit issued under such subchapter solely because such source is subject to regulations or requirements under this subsection.

(G) In exercising any authority under this subsection, the Administrator shall not, for purposes of section 653(b)(1) of title 29, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(H) PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—

(i) DEFINITIONS.—In this subparagraph:

(I) COVERED PERSON.—The term “covered person” means—

(aa) an officer or employee of the United States;

(bb) an officer or employee of an agent or contractor of the Federal Government;

(cc) an officer or employee of a State or local government;

(dd) an officer or employee of an agent or contractor of a State or local government;

(ee) an individual affiliated with an entity that has been given, by a State or local government, responsibility for preventing, planning for, or responding to accidental releases;

(ff) an officer or employee or an agent or contractor of an entity described in item (ee); and

(gg) a qualified researcher under clause (vii).

(II) OFFICIAL USE.—The term “official use” means an action of a Federal, State, or local government agency or an entity referred to in subclause (I)(ee) intended to carry out a function relevant to preventing, planning for, or responding to accidental releases.

(III) OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—The term “off-site consequence analysis information” means those portions of a risk management plan, excluding the executive summary of the plan, consisting of an evaluation of 1 or more worst-case release scenarios or alternative release scenarios, and any electronic data base created by the Administrator from those portions.

(IV) RISK MANAGEMENT PLAN.—The term “risk management plan” means a risk management plan submitted to the Administrator by an owner or operator of a stationary source under subparagraph (B)(iii).

(ii) REGULATIONS.—Not later than 1 year after August 5, 1999, the President shall—

(I) assess—

(aa) the increased risk of terrorist and other criminal activity associated with the posting of off-site consequence analysis information on the Internet; and

(bb) the incentives created by public disclosure of off-site consequence analysis information for reduction in the risk of accidental releases; and

(II) based on the assessment under subclause (I), promulgate regulations governing the distribution of off-site consequence analysis information in a manner that, in the opinion of the President, minimizes the likelihood of accidental releases and the risk described in subclause (I)(aa) and the likelihood of harm to public health and welfare, and—

(aa) allows access by any member of the public to paper copies of off-site consequence analysis information for a limited number of stationary sources located anywhere in the United States, without any geographical restriction;

(bb) allows other public access to off-site consequence analysis information as appropriate;

(cc) allows access for official use by a covered person described in any of items (cc) through (ff) of clause (i)(I) (referred to in this subclause as a “State or local covered person”) to off-site consequence analysis information relating to stationary sources located in the person’s State;

(dd) allows a State or local covered person to provide, for official use, off-site consequence analysis information relating to stationary sources located in the person’s State to a State or local covered person in a contiguous State; and

(ee) allows a State or local covered person to obtain for official use, by request to the Administrator, off-site consequence analysis information that is not available to the person under item (cc).

(iii) AVAILABILITY UNDER FREEDOM OF INFORMATION ACT.—

(I) FIRST YEAR.—Off-site consequence analysis information, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5 during the 1-year period beginning on August 5, 1999.

(II) AFTER FIRST YEAR.—If the regulations under clause (ii) are promulgated on or before the end of the period described in subclause (I), off-site consequence analysis information covered by the regulations, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5 after the end of that period.

(III) APPLICABILITY.—Subclauses (I) and (II) apply to off-site consequence analysis information submitted to the Administrator before, on, or after August 5, 1999.

(iv) AVAILABILITY OF INFORMATION DURING TRANSITION PERIOD.—The Administrator

shall make off-site consequence analysis information available to covered persons for official use in a manner that meets the requirements of items (cc) through (ee) of clause (ii)(II), and to the public in a form that does not make available any information concerning the identity or location of stationary sources, during the period—

(I) beginning on August 5, 1999; and

(II) ending on the earlier of the date of promulgation of the regulations under clause (ii) or the date that is 1 year after August 5, 1999.

(v) PROHIBITION ON UNAUTHORIZED DISCLOSURE OF INFORMATION BY COVERED PERSONS.—

(I) IN GENERAL.—Beginning on August 5, 1999, a covered person shall not disclose to the public off-site consequence analysis information in any form, or any statewide or national ranking of identified stationary sources derived from such information, except as authorized by this subparagraph (including the regulations promulgated under clause (ii)). After the end of the 1-year period beginning on August 5, 1999, if regulations have not been promulgated under clause (ii), the preceding sentence shall not apply.

(II) CRIMINAL PENALTIES.—Notwithstanding section 7413 of this title, a covered person that willfully violates a restriction or prohibition established by this subparagraph (including the regulations promulgated under clause (ii)) shall, upon conviction, be fined for an infraction under section 3571 of title 18 (but shall not be subject to imprisonment) for each unauthorized disclosure of off-site consequence analysis information, except that subsection (d) of such section 3571 shall not apply to a case in which the offense results in pecuniary loss unless the defendant knew that such loss would occur. The disclosure of off-site consequence analysis information for each specific stationary source shall be considered a separate offense. The total of all penalties that may be imposed on a single person or organization under this item shall not exceed \$1,000,000 for violations committed during any 1 calendar year.

(III) APPLICABILITY.—If the owner or operator of a stationary source makes off-site consequence analysis information relating to that stationary source available to the public without restriction—

(aa) subclauses (I) and (II) shall not apply with respect to the information; and

(bb) the owner or operator shall notify the Administrator of the public availability of the information.

(IV) LIST.—The Administrator shall maintain and make publicly available a list of all stationary sources that have provided notification under subclause (III)(bb).

(vi) NOTICE.—The Administrator shall provide notice of the definition of official use as

provided in clause (i)(III)<sup>9</sup> and examples of actions that would and would not meet that definition, and notice of the restrictions on further dissemination and the penalties established by this chapter to each covered person who receives off-site consequence analysis information under clause (iv) and each covered person who receives off-site consequence analysis information for an official use under the regulations promulgated under clause (ii).

(vii) QUALIFIED RESEARCHERS.—

(I) IN GENERAL.—Not later than 180 days after August 5, 1999, the Administrator, in consultation with the Attorney General, shall develop and implement a system for providing off-site consequence analysis information, including facility identification, to any qualified researcher, including a qualified researcher from industry or any public interest group.

(II) LIMITATION ON DISSEMINATION.—The system shall not allow the researcher to disseminate, or make available on the Internet, the off-site consequence analysis information, or any portion of the off-site consequence analysis information, received under this clause.

(viii) READ-ONLY INFORMATION TECHNOLOGY SYSTEM.—In consultation with the Attorney General and the heads of other appropriate Federal agencies, the Administrator shall establish an information technology system that provides for the availability to the public of off-site consequence analysis information by means of a central data base under the control of the Federal Government that contains information that users may read, but that provides no means by which an electronic or mechanical copy of the information may be made.

(ix) VOLUNTARY INDUSTRY ACCIDENT PREVENTION STANDARDS.—The Environmental Protection Agency, the Department of Justice, and other appropriate agencies may provide technical assistance to owners and operators of stationary sources and participate in the development of voluntary industry standards that will help achieve the objectives set forth in paragraph (1).

(x) EFFECT ON STATE OR LOCAL LAW.—

(I) IN GENERAL.—Subject to subclause (II), this subparagraph (including the regulations promulgated under this subparagraph) shall supersede any provision of State or local law that is inconsistent with this subparagraph (including the regulations).

(II) AVAILABILITY OF INFORMATION UNDER STATE LAW.—Nothing in this subparagraph precludes a State from making available data on the off-site consequences of chemical releases collected in accordance with State law.

(xi) REPORT.—

(I) IN GENERAL.—Not later than 3 years after August 5, 1999, the Attorney General, in consultation with appropriate State,

<sup>9</sup>So in original. Probably should be "(i)(II)".

local, and Federal Government agencies, affected industry, and the public, shall submit to Congress a report that describes the extent to which regulations promulgated under this paragraph have resulted in actions, including the design and maintenance of safe facilities, that are effective in detecting, preventing, and minimizing the consequences of releases of regulated substances that may be caused by criminal activity. As part of this report, the Attorney General, using available data to the extent possible, and a sampling of covered stationary sources selected at the discretion of the Attorney General, and in consultation with appropriate State, local, and Federal governmental agencies, affected industry, and the public, shall review the vulnerability of covered stationary sources to criminal and terrorist activity, current industry practices regarding site security, and security of transportation of regulated substances. The Attorney General shall submit this report, containing the results of the review, together with recommendations, if any, for reducing vulnerability of covered stationary sources to criminal and terrorist activity, to the Committee on Commerce of the United States House of Representatives and the Committee on Environment and Public Works of the United States Senate and other relevant committees of Congress.

(II) **INTERIM REPORT.**—Not later than 12 months after August 5, 1999, the Attorney General shall submit to the Committee on Commerce of the United States House of Representatives and the Committee on Environment and Public Works of the United States Senate, and other relevant committees of Congress, an interim report that includes, at a minimum—

- (aa) the preliminary findings under subclause (I);
- (bb) the methods used to develop the findings; and
- (cc) an explanation of the activities expected to occur that could cause the findings of the report under subclause (I) to be different than the preliminary findings.

(III) **AVAILABILITY OF INFORMATION.**—Information that is developed by the Attorney General or requested by the Attorney General and received from a covered stationary source for the purpose of conducting the review under subclauses (I) and (II) shall be exempt from disclosure under section 552 of title 5 if such information would pose a threat to national security.

(xi) **SCOPE.**—This subparagraph—

- (I) applies only to covered persons; and
- (II) does not restrict the dissemination of off-site consequence analysis information by any covered person in any manner or form except in the form of a risk management plan or an electronic data base created by the Administrator from off-site consequence analysis information.

(xii) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator and the Attorney General such sums as are necessary to carry out this subparagraph (including the regulations promulgated under clause (ii)), to remain available until expended.

**(8) Research on hazard assessments**

The Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under paragraph (3). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques for hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

**(9) Order authority**

(A) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the human health or welfare or the environment because of an actual or threatened accidental release of a regulated substance, the Administrator may secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the stationary source is located, take other action under this paragraph including, but not limited to, issuing such orders as may be necessary to protect human health. The Administrator shall take action under section 7603 of this title rather than this paragraph whenever the authority of such section is adequate to protect human health and the environment.

(B) Orders issued pursuant to this paragraph may be enforced in an action brought in the appropriate United States district court as if the order were issued under section 7603 of this title.

(C) Within 180 days after November 15, 1990, the Administrator shall publish guidance for using the order authorities established by this paragraph. Such guidance shall provide for the coordinated use of the authorities of this paragraph with other emergency powers authorized by section 9606 of this title, sections 311(c), 308, 309 and 504(a) of the Federal Water Pollution Control Act [33 U.S.C. 1321(c), 1318, 1319, 1364(a)], sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act [42 U.S.C. 6927, 6928, 6934, 6973], sections 1445 and 1431 of the Safe Drinking Water Act [42 U.S.C. 300j-4, 300i], sections 5 and 7 of the Toxic Substances Control Act [15 U.S.C. 2604, 2606], and sections 7413, 7414, and 7603 of this title.

**(10) Presidential review**

The President shall conduct a review of release prevention, mitigation and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and effi-

cient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Chemical Safety and Hazard Investigation Board in conducting such review. At the conclusion of such review, but not later than 24 months after November 15, 1990, the President shall transmit a message to the Congress on the release prevention, mitigation and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this paragraph shall be interpreted, construed or applied to authorize the President to modify or reassign release prevention, mitigation or response authorities otherwise established by law.

**(11) State authority**

Nothing in this subsection shall preclude, deny or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard (including any procedural requirement) that is more stringent than a regulation, requirement, limitation or standard in effect under this subsection or that applies to a substance not subject to this subsection.

**(s) Periodic report**

Not later than January 15, 1993 and every 3 years thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency and by the States to implement the provisions of this section. The Administrator shall maintain a database on pollutants and sources subject to the provisions of this section and shall include aggregate information from the database in each annual report. The report shall include, but not be limited to—

- (1) a status report on standard-setting under subsections (d) and (f);
- (2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories;
- (3) development and implementation of the national urban air toxics program; and
- (4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of accidental releases.

(July 14, 1955, ch. 360, title I, §112, as added Pub. L. 91-604, §4(a), Dec. 31, 1970, 84 Stat. 1685; amended Pub. L. 95-95, title I, §§109(d)(2), 110, title IV, §401(c), Aug. 7, 1977, 91 Stat. 701, 703, 791; Pub. L. 95-623, §13(b), Nov. 9, 1978, 92 Stat. 3458; Pub. L. 101-549, title III, §301, Nov. 15, 1990, 104 Stat. 2531; Pub. L. 102-187, Dec. 4, 1991, 105 Stat. 1285; Pub. L. 105-362, title IV, §402(b), Nov. 10, 1998, 112 Stat. 3283; Pub. L. 106-40, §2, 3(a), Aug. 5, 1999, 113 Stat. 207, 208.)

**REFERENCES IN TEXT**

The date of enactment, referred to in subsec. (a)(11), probably means the date of enactment of Pub. L. 101-549, which amended this section generally and was approved Nov. 15, 1990.

The Atomic Energy Act, referred to in subsec. (d)(9), probably means the Atomic Energy Act of 1954, act

Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsecs. (e)(5) and (m)(1)(D), (5)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. Title II of the Act is classified generally to subchapter II (§1281 et seq.) of chapter 26 of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Toxic Substances Control Act, referred to in subsec. (k)(3)(C), is Pub. L. 94-469, Oct. 11, 1976, 90 Stat. 2003, as amended, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Federal Insecticide, Fungicide and Rodenticide Act, referred to in subsec. (k)(3)(C), probably means the Federal Insecticide, Fungicide, and Rodenticide Act, act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Resource Conservation and Recovery Act, referred to in subsec. (k)(3)(C), probably means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, Oct. 21, 1976, 90 Stat. 2796, as amended, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of this title and Tables.

The Safe Drinking Water Act, referred to in subsec. (m)(1)(D), (5)(D), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Solid Waste Disposal Act, referred to in subsec. (n)(7), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795. Subtitle C of the Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

Section 303 of the Clean Air Act Amendments of 1990, referred to in subsec. (o)(4), probably means section 303 of Pub. L. 101-549, which is set out below.

The Clean Air Act Amendments of 1990, referred to in subsec. (q)(1)-(3), probably means Pub. L. 101-549, Nov. 15, 1990, 104 Stat. 2399. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Emergency Planning and Community Right-To-Know Act of 1986, referred to in subsec. (r)(3), is title III of Pub. L. 99-499, Oct. 17, 1986, 100 Stat. 1728, which is classified generally to chapter 116 (§11001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11001 of this title and Tables.

The Occupational Safety and Health Act, referred to in subsec. (r)(6)(C)(1), (K), (L), probably means the Occupational Safety and Health Act of 1970, Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

**CODIFICATION**

In subsec. (r)(6)(N), "section 6101 of title 41" substituted for "section 5 of title 41 of the United States

Code" on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was formerly classified to section 1857c-7 of this title.

#### AMENDMENTS

1999—Subsec. (r)(2)(D). Pub. L. 106-40, § 2(5), added subpar. (D).

Subsec. (r)(4). Pub. L. 106-40, § 2, substituted "Administrator—

"(A) shall consider—"

for "Administrator shall consider each of the following criteria—" in introductory provisions, redesignated subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A) and added subpar. (B).

Subsec. (r)(7)(H). Pub. L. 106-40, § 3(a), added subpar. (H).

1998—Subsec. (n)(2)(C). Pub. L. 105-362 substituted "On completion of the study, the Secretary shall submit to Congress a report on the results of the study and" for "The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study".

1991—Subsec. (b)(1). Pub. L. 102-187 struck out "783064 Hydrogen sulfide" from list of pollutants.

1990—Pub. L. 101-549 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), definitions; in subsec. (b), list of hazardous air pollutants, emission standards, and pollution control techniques; in subsec. (c), prohibited acts and exemption; in subsec. (d), State implementation and enforcement; and in subsec. (e), design, equipment, work practice, and operational standards.

1978—Subsec. (e)(5). Pub. L. 95-623 added par. (5).

1977—Subsec. (a)(1). Pub. L. 95-95, § 401(c), substituted "causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness" for "may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness".

Subsec. (d)(1). Pub. L. 95-95, § 109(d)(2), struck out "(except with respect to stationary sources owned or operated by the United States)" after "implement and enforce such standards".

Subsec. (e). Pub. L. 95-95, § 110, added subsec. (e).

#### CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 7401 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reports required under subsecs. (m)(5), (r)(6)(C)(11), and (s) of this section are listed, respectively, as the 8th item on page 162, the 9th item on page 198, and the 9th item on page 162), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

#### PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

#### MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

#### DELEGATION OF AUTHORITY

Memorandum of President of the United States, Aug. 19, 1993, 58 F.R. 52397, provided:

Memorandum for the Administrator of the Environmental Protection Agency

WHEREAS, the Environmental Protection Agency, the agencies and departments that are members of the National Response Team (authorized under Executive Order No. 12580, 52 Fed. Reg. 2923 (1987) [42 U.S.C. 9615 note]), and other Federal agencies and departments undertake emergency release prevention, mitigation, and response activities pursuant to various authorities;

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112(r)(10) of the Clean Air Act (the "Act") (section 7412(r)(10) of title 42 of the United States Code) and section 301 of title 3 of the United States Code, and in order to provide for the delegation of certain functions under the Act [42 U.S.C. 7401 et seq.], I hereby:

(1) Authorize you, in coordination with agencies and departments that are members of the National Response Team and other appropriate agencies and departments, to conduct a review of release prevention, mitigation, and response authorities of Federal agencies in order to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources that may exist, to the extent such review is required by section 112(r)(10) of the Act; and

(2) Authorize you, in coordination with agencies and departments that are members of the National Response Team and other appropriate agencies and departments, to prepare and transmit a message to the Congress concerning the release prevention, mitigation, and response activities of the Federal Government with such recommendations for change in law as you deem appropriate, to the extent such message is required by section 112(r)(10) of the Act.

The authority delegated by this memorandum may be further redelegated within the Environmental Protection Agency.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 27, 2000, 65 F.R. 8631, provided:

Memorandum for the Attorney General[, ] the Administrator of the Environmental Protection Agency[, and] the Director of the Office of Management and Budget

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 112(r)(7)(H) of the Clean Air Act ("Act") (42 U.S.C. 7412(r)(7)(H)), as added by section 3 of the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Public Law 106-40), and section 301 of title 3, United States Code, I hereby delegate to:

(1) the Attorney General the authority vested in the President under section 112(r)(7)(H)(i)(I)(aa) of the Act to assess the increased risk of terrorist and other criminal activity associated with the posting of off-site consequence analysis information on the Internet;

(2) the Administrator of the Environmental Protection Agency (EPA) the authority vested in the President under section 112(r)(7)(H)(i)(I)(bb) of the Act to assess the incentives created by public disclosure of off-site consequence analysis information for reduction in the risk of accidental releases; and

(3) the Attorney General and the Administrator of EPA, jointly, the authority vested in the President under section 112(r)(7)(H)(i)(II) of the Act to promulgate regulations, based on these assessments, governing the distribution of off-site consequence analysis information. These regulations, in proposed and final form, shall be subject to review and approval by the Director of the Office of Management and Budget.

The Administrator of EPA is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

#### REPORTS

Pub. L. 106-40, §3(b), Aug. 5, 1999, 113 Stat. 213, provided that:

"(1) DEFINITION OF ACCIDENTAL RELEASE.—In this subsection, the term 'accidental release' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))."

"(2) REPORT ON STATUS OF CERTAIN AMENDMENTS.—Not later than 2 years after the date of enactment of this Act [Aug. 5, 1999], the Comptroller General of the United States shall submit to Congress a report on the status of the development of amendments to the National Fire Protection Association Code for Liquefied Petroleum Gas that will result in the provision of information to local emergency response personnel concerning the off-site effects of accidental releases of substances exempted from listing under section 112(r)(4)(B) of the Clean Air Act (as added by section 3)."

"(3) REPORT ON COMPLIANCE WITH CERTAIN INFORMATION SUBMISSION REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

"(A) describes the level of compliance with Federal and State requirements relating to the submission to local emergency response personnel of information intended to help the local emergency response personnel respond to chemical accidents or related environmental or public health threats; and

"(B) contains an analysis of the adequacy of the information required to be submitted and the efficacy of the methods for delivering the information to local emergency response personnel."

#### REEVALUATION OF REGULATIONS

Pub. L. 106-40, §3(c), Aug. 5, 1999, 113 Stat. 213, provided that: "The President shall reevaluate the regulations promulgated under this section within 6 years after the enactment of this Act [Aug. 5, 1999]. If the President determines not to modify such regulations, the President shall publish a notice in the Federal Register stating that such reevaluation has been completed and that a determination has been made not to modify the regulations. Such notice shall include an explanation of the basis of such decision."

#### PUBLIC MEETING DURING MORATORIUM PERIOD

Pub. L. 106-40, §4, Aug. 5, 1999, 113 Stat. 214, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Aug. 5, 1999], each owner or operator of a stationary source covered by section 112(r)(7)(B)(ii) of the Clean Air Act [42 U.S.C. 7412(r)(7)(B)(ii)] shall convene a public meeting, after reasonable public notice, in order to describe and discuss the local implications of the risk management plan submitted by the stationary source pursuant to section 112(r)(7)(B)(iii) of the Clean Air Act, including a summary of the off-site consequence analysis portion of the plan. Two or more stationary sources may conduct a joint meeting. In lieu of conducting such a meeting, small business stationary sources as defined in section 507(c)(1) of the Clean Air Act [42 U.S.C. 7661f(c)(1)] may comply with this section by publicly posting a summary of the off-site consequence analysis information for their facility not later than 180 days after the enactment of this Act. Not later than 10 months after the date of enactment of this Act, each such owner or operator shall send a certification to the director of the Federal Bureau of Investigation stating that such meeting has been held, or that such summary has been posted, within 1 year prior to, or within 6 months after, the date of the enactment of this Act. This section shall not apply to sources that employ only Program 1 processes within the meaning of regulations promulgated under section 112(r)(7)(B)(i) of the Clean Air Act."

"(b) ENFORCEMENT.—The Administrator of the Environmental Protection Agency may bring an action in the appropriate United States district court against any person who fails or refuses to comply with the requirements of this section, and such court may issue such orders, and take such other actions, as may be necessary to require compliance with such requirements."

#### RISK ASSESSMENT AND MANAGEMENT COMMISSION

Pub. L. 101-549, title III, §308, Nov. 15, 1990, 104 Stat. 2574, provided that:

"(a) ESTABLISHMENT.—There is hereby established a Risk Assessment and Management Commission (hereafter referred to in this section as the 'Commission'), which shall commence proceedings not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990 [Nov. 15, 1990] and which shall make a full investigation of the policy implications and appropriate uses of risk assessment and risk management in regulatory programs under various Federal laws to prevent cancer and other chronic human health effects which may result from exposure to hazardous substances."

"(b) CHARGE.—The Commission shall consider—

"(1) the report of the National Academy of Sciences authorized by section 112(o) of the Clean Air Act (42 U.S.C. 7412(o)), the use and limitations of risk assessment in establishing emission or effluent standards, ambient standards, exposure standards, acceptable concentration levels, tolerances or other environmental criteria for hazardous substances that present a risk of carcinogenic effects or other chronic health effects and the suitability of risk assessment for such purposes;

"(2) the most appropriate methods for measuring and describing cancer risks or risks of other chronic health effects from exposure to hazardous substances considering such alternative approaches as the lifetime risk of cancer or other effects to the individual or individuals most exposed to emissions from a source or sources on both an actual and worst case basis, the range of such risks, the total number of health effects avoided by exposure reductions, effluent standards, ambient standards, exposure standards, acceptable concentration levels, tolerances and other environmental criteria, reductions in the number of persons exposed at various levels of risk, the incidence of cancer, and other public health factors;

"(3) methods to reflect uncertainties in measurement and estimation techniques, the existence of synergistic or antagonistic effects among hazardous substances, the accuracy of extrapolating human

health risks from animal exposure data, and the existence of unquantified direct or indirect effects on human health in risk assessment studies;

"(4) risk management policy issues including the use of lifetime cancer risks to individuals most exposed, incidence of cancer, the cost and technical feasibility of exposure reduction measures and the use of site-specific actual exposure information in setting emissions standards and other limitations applicable to sources of exposure to hazardous substances; and

"(5) and comment on the degree to which it is possible or desirable to develop a consistent risk assessment methodology, or a consistent standard of acceptable risk, among various Federal programs.

"(c) MEMBERSHIP.—Such Commission shall be composed of ten members who shall have knowledge or experience in fields of risk assessment or risk management, including three members to be appointed by the President, two members to be appointed by the Speaker of the House of Representatives, one member to be appointed by the Minority Leader of the House of Representatives, two members to be appointed by the Majority Leader of the Senate, one member to be appointed by the Minority Leader of the Senate, and one member to be appointed by the President of the National Academy of Sciences. Appointments shall be made not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990 [Nov. 15, 1990].

"(d) ASSISTANCE FROM AGENCIES.—The Administrator of the Environmental Protection Agency and the heads of all other departments, agencies, and instrumentalities of the executive branch of the Federal Government shall, to the maximum extent practicable, assist the Commission in gathering such information as the Commission deems necessary to carry out this section subject to other provisions of law.

"(e) STAFF AND CONTRACTS.—

"(1) In the conduct of the study required by this section, the Commission is authorized to contract (in accordance with Federal contract law) with non-governmental entities that are competent to perform research or investigations within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

"(2) The Commission may appoint and fix the pay of such staff as it deems necessary in accordance with the provisions of title 5, United States Code. The Commission may request the temporary assignment of personnel from the Environmental Protection Agency or other Federal agencies.

"(3) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chair, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for Grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

"(f) REPORT.—A report containing the results of all Commission studies and investigations under this section, together with any appropriate legislative recommendations or administrative recommendations, shall be made available to the public for comment not later than 42 months after the date of enactment of the Clean Air Act Amendments of 1990 [Nov. 15, 1990] and shall be submitted to the President and to the Congress not later than 48 months after such date of enactment. In the report, the Commission shall make recommendations with respect to the appropriate use of risk assessment and risk management in Federal regulatory programs to prevent cancer or other chronic health effects which may result from exposure to hazardous substances. The Commission shall cease to exist upon the date determined by the Commission, but not later than 9 months after the submission of such report.

"(g) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the activities of the Commission established by this section."

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

#### FLEXIBLE IMPLEMENTATION OF THE MERCURY AND AIR TOXICS STANDARDS RULE

Memorandum of President of the United States, Dec. 21, 2011, 76 F.R. 80727, provided:

Memorandum for the Administrator of the Environmental Protection Agency

Today's issuance, by the Environmental Protection Agency (EPA), of the final Mercury and Air Toxics Standards rule for power plants (the "MATS Rule") represents a major step forward in my Administration's efforts to protect public health and the environment.

This rule, issued after careful consideration of public comments, prescribes standards under section 112 of the Clean Air Act to control emissions of mercury and other toxic air pollutants from power plants, which collectively are among the largest sources of such pollution in the United States. The EPA estimates that by substantially reducing emissions of pollutants that contribute to neurological damage, cancer, respiratory illnesses, and other health risks, the MATS Rule will produce major health benefits for millions of Americans—including children, older Americans, and other vulnerable populations. Consistent with Executive Order 13563 (Improving Regulation and Regulatory Review), the estimated benefits of the MATS Rule far exceed the estimated costs.

The MATS Rule can be implemented through the use of demonstrated, existing pollution control technologies. The United States is a global market leader in the design and manufacture of these technologies, and it is anticipated that U.S. firms and workers will provide much of the equipment and labor needed to meet the substantial investments in pollution control that the standards are expected to spur.

These new standards will promote the transition to a cleaner and more efficient U.S. electric power system. This system as a whole is critical infrastructure that plays a key role in the functioning of all facets of the U.S. economy, and maintaining its stability and reliability is of critical importance. It is therefore crucial that implementation of the MATS Rule proceed in a cost-effective manner that ensures electric reliability.

Analyses conducted by the EPA and the Department of Energy (DOE) indicate that the MATS Rule is not anticipated to compromise electric generating resource adequacy in any region of the country. The Clean Air Act offers a number of implementation flexibilities, and the EPA has a long and successful history of using those flexibilities to ensure a smooth transition to cleaner technologies.

The Clean Air Act provides 3 years from the effective date of the MATS Rule for sources to comply with its requirements. In addition, section 112(i)(3)(B) of the Act allows the issuance of a permit granting a source up to one additional year where necessary for the installation of controls. As you stated in the preamble to the MATS Rule, this additional fourth year should be broadly available to sources, consistent with the requirements of the law.

The EPA has concluded that 4 years should generally be sufficient to install the necessary emission control equipment, and DOE has issued analysis consistent with that conclusion. While more time is generally not expected to be needed, the Clean Air Act offers other important flexibilities as well. For example, section 113(a) of the Act provides the EPA with flexibility to bring sources into compliance over the course of an additional year, should unusual circumstances arise that warrant such flexibility.

To address any concerns with respect to electric reliability while assuring MATS' public health benefits, I direct you to take the following actions:

1. Building on the information and guidance that you have provided to the public, relevant stakeholders, and permitting authorities in the preamble of the MATS Rule, work with State and local permitting authorities to make the additional year for compliance with the MATS Rule provided under section 112(i)(3)(B) of the Clean Air Act broadly available to sources, consistent with law, and to invoke this flexibility expeditiously where justified.

2. Promote early, coordinated, and orderly planning and execution of the measures needed to implement the MATS Rule while maintaining the reliability of the electric power system. Consistent with Executive Order 13563, this process should be designed to "promote predictability and reduce uncertainty," and should include engagement and coordination with DOE, the Federal Energy Regulatory Commission, State utility regulators, Regional Transmission Organizations, the North American Electric Reliability Corporation and regional electric reliability organizations, other grid planning authorities, electric utilities, and other stakeholders, as appropriate.

3. Make available to the public, including relevant stakeholders, information concerning any anticipated use of authorities: (a) under section 112(i)(3)(B) of the Clean Air Act in the event that additional time to comply with the MATS Rule is necessary for the installation of technology; and (b) under section 113(a) of the Clean Air Act in the event that additional time to comply with the MATS Rule is necessary to address a specific and documented electric reliability issue. This information should describe the process for working with entities with relevant expertise to identify circumstances where electric reliability concerns might justify allowing additional time to comply.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

### § 7413. Federal enforcement

#### (a) In general

##### (1) Order to comply with SIP

Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28)—

(A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit,

(B) issue an administrative penalty order in accordance with subsection (d), or

(C) bring a civil action in accordance with subsection (b).

##### (2) State failure to enforce SIP or permit program

Whenever, on the basis of information available to the Administrator, the Administrator

finds that violations of an applicable implementation plan or an approved permit program under subchapter V are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, the Administrator shall so notify the State. In the case of a permit program, the notice shall be made in accordance with subchapter V. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), the Administrator shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement or prohibition of such plan or permit program with respect to any person by—

(A) issuing an order requiring such person to comply with such requirement or prohibition,

(B) issuing an administrative penalty order in accordance with subsection (d), or

(C) bringing a civil action in accordance with subsection (b).

##### (3) EPA enforcement of other requirements

Except for a requirement or prohibition enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this subchapter, section 7603 of this title, subchapter IV-A, subchapter V, or subchapter VI, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or subchapters, or for the payment of any fee owed to the United States under this chapter (other than subchapter II), the Administrator may—

(A) issue an administrative penalty order in accordance with subsection (d),

(B) issue an order requiring such person to comply with such requirement or prohibition,

(C) bring a civil action in accordance with subsection (b) or section 7605 of this title, or

(D) request the Attorney General to commence a criminal action in accordance with subsection (c).

##### (4) Requirements for orders

An order issued under this subsection (other than an order relating to a violation of section 7412 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation and specify a time for compli-

# Title 40

## PART 1600

CFR (<https://ecfr.io/>) > / Title 40 (<https://ecfr.io/Title-40/>) > / Volume 37 (<https://ecfr.io/Title-40/Volume-37/>) > / Chapter VI (<https://ecfr.io/Title-40/Volume-37/Chapter-VI/>) > / Part 1600 (<https://ecfr.io/Title-40/Part-1600/>)

### Part 1600 - Organization And Functions Of The Chemical Safety And Hazard Investigation Board

PART 1600 - ORGANIZATION AND FUNCTIONS OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD Authority:5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N). Source:68 FR 65403, Nov. 20, 2003, unless otherwise noted.

- Authority: 5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N).
- Source: 68 FR 65403, Nov. 20, 2003, unless otherwise noted.

40:37.0.4.3.1.0.37.1	SECTION 1600.1	1600.1 Purpose. (/Title-40/Section-1600.1)
40:37.0.4.3.1.0.37.2	SECTION 1600.2	1600.2 Organization. (/Title-40/Section-1600.2)
40:37.0.4.3.1.0.37.3	SECTION 1600.3	1600.3 Functions. (/Title-40/Section-1600.3)
40:37.0.4.3.1.0.37.4	SECTION 1600.4	1600.4 Operation (/Title-40/Section-1600.4)
40:37.0.4.3.1.0.37.5	SECTION 1600.5	1600.5 Quorum and voting requirements. (/Title-40/Section-1600.5)
40:37.0.4.3.1.0.37.6	SECTION 1600.6	1600.6 Office location (/Title-40/Section-1600.6)

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# Title 40

## SECTION 1600.1

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/ [Section 1600.1 \(https://ecfr.io/Title-40/Section-1600.1/\)](https://ecfr.io/Title-40/Section-1600.1/)

### 1600.1 Purpose.

§ 1600.1 Purpose.

This part describes the organization, functions, and operation of the Chemical Safety and Hazard Investigation Board (CSB). The CSB is an independent agency of the United States created by the Clean Air Act Amendments of 1990 [Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7412(r)(6) *et seq.*]. Information about the CSB is available from its Web site, <http://www.csb.gov>.

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# Title 40

## SECTION 1600.2

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/ Section 1600.2 (<https://ecfr.io/Title-40/Section-1600.2/>)

### 1600.2 Organization.

§ 1600.2 Organization.

(a) The CSB's Board consists of five Members appointed by the President with the advice and consent of the Senate. The President designates one of the Members as Chairperson with the advice and consent of the Senate. The Members exercise various functions, powers, and duties set forth in the Clean Air Act Amendments of 1990 (42 U.S.C. 7412(r)(6) *et seq.*).

(b) The CSB's staff is comprised of the following administrative units:

- (1) The Office of the Chief Operating Officer;
- (2) The Office of Investigations and Safety Programs;
- (3) The Office of the General Counsel;
- (4) The Office of Financial Operations;
- (5) The Office of Management Operations; and
- (6) The Office of Equal Employment Opportunity.

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# Title 40

## SECTION 1600.3

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/ [Section 1600.3 \(https://ecfr.io/Title-40/Section-1600.3/\)](https://ecfr.io/Title-40/Section-1600.3/)

### 1600.3 Functions.

#### § 1600.3 Functions.

(a) The CSB investigates chemical accidents and hazards, recommending actions to protect workers, the public, and the environment. The CSB is responsible for the investigation and determination of the facts, conditions, and circumstances and the cause or probable cause or causes of any accidental release resulting in a fatality, serious injury, or substantial property damages.

(b) The CSB makes safety recommendations to Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration and private organizations to reduce the likelihood of recurrences of chemical incidents. It initiates and conducts safety studies and special investigations on matters pertaining to chemical safety.

(c) The CSB issues reports pursuant to its duties to determine the cause or probable cause or causes of chemical incidents and to report the facts, conditions, and circumstances relating to such incidents; and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

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# Title 40

## SECTION 1600.4

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/ Section 1600.4 (<https://ecfr.io/Title-40/Section-1600.4/>)

### 1600.4 Operation.

#### § 1600.4 Operation.

In exercising its functions, duties, and responsibilities, the CSB utilizes:

- (a) The CSB's staff, consisting of specialized offices performing investigative, administrative, legal, and financial work for the Board.
- (b) Rules published in the Federal Register and codified in this title of the Code of Federal Regulations.
- (c) Meetings of the Board Members conducted pursuant to the Government In the Sunshine Act and part 1603 of this title (CSB Rules Implementing the Government in the Sunshine Act) or voting by notation as provided in § 1600.5(b).
- (d) Public hearings in connection with incident or hazard investigations.

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# Title 40

## SECTION 1600.5

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/ Section 1600.5 (<https://ecfr.io/Title-40/Section-1600.5/>)

### 1600.5 Quorum and voting requirements.

§ 1600.5 Quorum and voting requirements.

(a) *Quorum requirements.* A quorum of the Board for the transaction of business shall consist of three Members; provided, however, that if the number of Board Members in office is fewer than three, a quorum shall consist of the number of Members in Office; and provided further that on any matter of business as to which the number of Members in office, minus the number of Members who have disqualified themselves from consideration of such matter is two, two Members shall constitute a quorum for purposes of such matter. Once a quorum is constituted, a simple majority of voting Members is required to approve an item of the Board's business. A tie vote results in no action.

(b) *Voting.* The Board votes on Items of business in meetings conducted pursuant to the Government in the Sunshine Act. Alternatively, whenever a Member of the Board is of the opinion that joint deliberation among the members of the Board upon any matter at a meeting is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, such matter may be disposed of by employing notation voting procedures. A written notation of the vote of each participating Board member shall be recorded by the General Counsel who shall retain it in the records of the Board. If a Board member votes to calendar a notation item, the Board must consider the calendared notation item at a public meeting of the Board within 90 days of the date on which the item is calendared. A notation vote to schedule a public meeting may not be calendared. The Chairperson shall add any calendared notation item to the agenda for the next CSB public meeting if one is to occur within 90 days or to schedule a special meeting to consider any calendared notation item no later than 90 days from the calendar action.

(c) *Public meetings and agendas.* The Chairperson, or in the absence of a chairperson, a member designated by the Board, shall schedule a minimum of four public meetings per year in Washington, DC, to take place during the months of October, January, April, and July.

(1) *Agenda.* The Chairperson, or in the absence of a chairperson, a member designated by the Board, shall be responsible for preparation of a final meeting agenda. The final agenda may not differ in substance from the items published in the Sunshine Act notice for that meeting. Any member may submit agenda items related to CSB business for consideration at any public meeting, and the Chairperson shall include such items on the agenda. At a minimum, each quarterly meeting shall include the following agenda items:

- (i) Consideration and vote on any notation items calendared since the date of the last public meeting;
- (ii) A review by the Board of the schedule for completion of all open investigations, studies, and other important work of the Board; and
- (iii) A review and discussion by the Board of the progress in meeting the CSB's Annual Action Plan.

(2) *Publication of agenda information.* The Chairperson shall be responsible for posting information related to any agenda item that is appropriate for public release on the CSB Web site no less than two days prior to a public meeting

[68 FR 65403, Nov. 20, 2003, as amended at 80 FR 46824, Aug. 6, 2015]

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# Title 40

## SECTION 1600.6

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/ [Section 1600.6 \(https://ecfr.io/Title-40/Section-1600.6\)](https://ecfr.io/Title-40/Section-1600.6/)

### 1600.6 Office location.

§ 1600.6 Office location.

The principal offices of the Chemical Safety and Hazard Investigation Board are located at 1750 Pennsylvania Ave. NW, Suite 910 Washington, DC 20006.

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## Title 40 Protection of the Environment

1. CFR Code of Federal Regulations
  - ›
2. Title 40 Protection of the Environment
  - ›
3. Volume 37
  - ›
4. Chapter VI Chemical Safety and Hazard Investigation Board
  - ›
5. Part 1600 ›
6. Section 1600.5

1600.5 Quorum and voting requirements.

§ 1600.5 Quorum and voting requirements.

(a) *Quorum requirements.* A quorum of the Board for the transaction of business shall consist of three Members; provided, however, that if the number of Board Members in office is fewer than three, a quorum shall consist of the number of Members in Office; and provided further that on any matter of business as to which the number of Members in office, minus the number of Members who have disqualified themselves from consideration of such matter is two, two Members shall constitute a quorum for purposes of such matter. Once a quorum is constituted, a simple majority of voting Members is required to approve an item of the Board's business. A tie vote results in no action.

(b) *Voting.* The Board votes on items of business in meetings conducted pursuant to the Government in the Sunshine Act. Alternatively, whenever a Member of the Board is of the opinion that joint deliberation among the members of the Board upon any matter at a meeting is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, such matter may be disposed of by employing notation voting procedures. A written notation of the vote of each participating Board member shall be recorded by the General Counsel who shall retain it in the records of the Board. If a Board member votes to calendar a notation item, the Board must consider the calendared notation item at a public meeting of the Board within 90 days of the date on which the item is calendared. A notation vote to schedule a public meeting may not be calendared. The Chairperson shall add any calendared notation item to the agenda for the next CSB public meeting if one is to occur within 90 days or to schedule a special meeting to consider any calendared notation item no later than 90 days from the calendar action.

(c) *Public meetings and agendas.* The Chairperson, or in the absence of a chairperson, a member designated by the Board, shall schedule a minimum of four public meetings per year in Washington, DC, to take place during the months of October, January, April, and July.

(1) *Agenda.* The Chairperson, or in the absence of a chairperson, a member designated by the Board, shall be responsible for preparation of a final meeting agenda. The final agenda may not differ in substance from the items published in the Sunshine Act notice for that meeting. Any member may submit agenda items related to CSB business for consideration at any public meeting, and the Chairperson shall include such items on the agenda. At a minimum, each quarterly meeting shall include the following agenda items:

(i) Consideration and vote on any notation items calendared since the date of the last public meeting;

(ii) A review by the Board of the schedule for completion of all open investigations, studies, and other important work of the Board; and

(iii) A review and discussion by the Board of the progress in meeting the CSB's Annual Action Plan.

(2) *Publication of agenda information.* The Chairperson shall be responsible for posting information related to any agenda item that is appropriate for public release on the CSB Web site no less than two days prior to a public meeting.

[68 FR 65403, Nov. 20, 2003, as amended at 80 FR 46824, Aug. 6, 2015]



**U.S. Chemical Safety and  
Hazard Investigation Board**

**BUDGET REQUEST**

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**FY 2021**

**FY 2021 Budget Request  
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## I. Introduction

As an independent, non-regulatory agency, the U.S. Chemical Safety and Hazard Investigation Board's (CSB) mission is to drive chemical safety change through independent investigations to protect people and the environment. To that end, the CSB conducts comprehensive, root cause investigations of serious chemical incidents, which are often preventable with robust safety programs. The agency then makes recommendations aimed at preventing similar incidents from recurring.

The CSB is a unique agency, modeled on the U.S. National Transportation Safety Board. No other Federal agency or private entity performs this type of comprehensive investigation. CSB investigations have collectively identified gaps in regulatory requirements, industry standards and guidance, workforce training and operations, and emergency planning and response that caused or exacerbated the human and environmental consequences of incidents.

Throughout its twenty-year history, the CSB has initiated more than 140 deployments and issued more than 800 recommendations related to chemical incidents. Incidents investigated by the CSB have resulted in more than 200 fatalities, over 1,200 injuries, and significant environmental damage.

The CSB's vision is a "nation safe from chemical disasters." The CSB educates regulators, industry personnel, standard-setting organizations, academia, and the American people to ensure that facilities that use hazardous chemicals properly manage their hazards and perform their work in a safe manner.

With a budget of \$12 million and an authorized staff of 47 in FY 2019, the CSB consistently works to advance chemical safety. The impact of the CSB's investigations and recommendations has resulted in significant safety improvements throughout the country in a wide variety of industries. The following examples of safety improvements were a direct result of CSB safety recommendations.

- Airgas LLC implemented a robust safety management system in response to the CSB's investigation of a nitrous oxide explosion that destroyed the company's nitrous oxide manufacturing facility in Cantonment, Florida.
- MGPI implemented several new safeguards specific to the facility's ventilation system and chemical transfer equipment in response to the CSB's investigation of a chemical release at the facility that formed a toxic vapor cloud. The CSB highlighted MGPI's efforts in a safety spotlight document.
- California adopted landmark process safety and chemical release rules for oil refineries. The rules are based, in part, on CSB recommendations from the Chevron Richmond and Exxon Torrance investigations. California has hired and trained new investigators to enforce the rules at the state's 14 refineries. The State of Washington is currently moving to adopt new process safety rules for its five refineries, based on California's model safeguards. This is prompted in part by CSB's investigation of the 2014 incident at the Tesoro refinery in Anacortes, WA, that killed seven workers.

Chemical disasters are extremely costly. To make the safety of Americans our primary priority, it is critical that chemical safety lessons are learned and shared among diverse stakeholders that use hazardous chemicals. The CSB has investigated numerous high consequence incidents that have resulted in millions of dollars in damage and a disruption to the regional and local economies.

- On June 21, 2019, an explosion and fire at the Philadelphia Energy Solutions (PES) Refinery in Philadelphia resulted in a massive explosion and fire releasing process fluid that included over 5,000 pounds of hydrofluoric acid, or HF. The refinery has since been shut down and hundreds of jobs were lost.
- On April 26, 2018, an explosion at a refinery in Wisconsin resulted in severe property damage and the evacuation of much of the nearby city. The incident resulted in at least \$20 million in property damage and \$40 million in business interruption expenses.
- Flooding from Hurricane Harvey in August 2017 disabled the refrigeration system at a chemical plant near Houston. As the temperature of chemicals stored at the facility rose, the trailers containing them began to catch fire, and emergency responders issued a six-day evacuation of residents within a 1.5-mile radius of the plant.
- A 2016 explosion at a natural gas plant in Pascagoula, MS, resulted in damages of over \$10.4 million due to fire response activities and another \$7.1 million in equipment damage.
- A 2016 explosion at one of the country's four nitrous oxide production facilities caused one fatality and led to a chemical shortage that affected hospitals, dentists, universities, food producers, and other industrial facilities across the country.
- A 2013 explosion at a fertilizer facility resulted in: 15 fatalities and more than 260 injuries; \$230 million in insurance-related losses; and \$16 million in Federal disaster assistance; however, the company held only a \$1 million insurance policy.
- A 2012 explosion at a refinery resulted in: medical treatment for 15,000 residents; \$2 million in fines and restitution; and \$447 million in increased gas prices for California consumers.<sup>1</sup>
- A 2010 explosion at an offshore drilling rig in the Gulf of Mexico resulted in: 11 workers killed and 17 injured; \$21 billion in settlements; \$13 billion in economic and medical claims from local businesses and residents;<sup>2</sup> and four million barrels of oil spilled into the Gulf of Mexico.

If the CSB's many safety lessons prevent at least one catastrophic incident, the costs avoided from damage to facilities and the surrounding communities, legal settlements, and the loss of human life far outweigh the agency's annual budget. Safety and prosperity are compatible. Strong safety programs are critical for the economic success of the many industries that use hazardous chemicals. If we do not learn from previous incidents, Americans will continue to spend billions of dollars responding to new ones. Through its independent investigations, the CSB plays a unique role in fostering collaboration with industry, regulators, standards setting bodies and professional organizations, thus emphasizing the CSB's vital role in driving critical chemical safety change in the United States.

<sup>1</sup> Dan Gonzales, Timothy Gulden, Aaron Strong and William Hoyle. Cost-Benefit Analysis of Proposed California Oil and Gas Refinery Regulations. Santa Monica, CA: RAND Corporation, 2016. [http://www.rand.org/pubs/research\\_reports/RR1421.html](http://www.rand.org/pubs/research_reports/RR1421.html).

<sup>2</sup> Data current at the time of publication of the CSB's final report. Litigation continued beyond the CSB's investigation.

## **II. Vision, Mission and Strategic Goals**

### **Vision**

A nation safe from chemical disasters.

### **Mission**

Drive chemical safety change through independent investigations to protect people and the environment.

### **Strategic Goals**

**Goal 1** – Prevent recurrence of significant chemical incidents through independent investigations.

- 1.1. Select for investigations those incidents and hazards that are most likely to generate recommendations or findings with broad preventive impact.
- 1.2. Complete timely, high-quality investigations that determine the causes of incidents.
- 1.3. Develop and issue recommendations with broad preventive impact.

**Goal 2** – Advocate safety and achieve change through recommendations, outreach, and education.

- 2.1. Pursue the implementation of recommendations, with focused effort on those designated as high-impact.
- 2.2. Identify and strategically promote key chemical safety issues.
- 2.3. Disseminate chemical safety information using a variety of high-visibility tools and products.

**Goal 3** – Create and maintain an engaged, high-performing workforce.

- 3.1. Implement effective recruiting, targeted retention, and skills-based training and mentorship.
- 3.2. Encourage management development and leadership at all levels.
- 3.3. Strategically allocate resources across the organization.
- 3.4. Strengthen operational performance and project management efforts.

### III. Budget Request

#### Budget Request Summary

The CSB requests a budget of \$13.140 million in FY 2021 to accomplish its unique safety mission, and continuing operations, plus a onetime request of \$400,000 for services (\$300,000) and equipment (\$100,000) to support a new Chemical Incident Reporting Rule initiative. This is an increase of \$1.540 million, or 12.83%, above the \$12 million rate proposed by the House June 3, 2019.<sup>3</sup>

The requested amount allows the CSB to: maintain and develop its investigation and safety outreach capacity in FY 2021; address succession planning concerns raised in the CSB's FY 2018 Human Capital Plan; and continue implementation of the President's initiatives for information technology (IT) modernization, preservation of government records, transitioning to an all-electronic environment for records preservation, and increasing the accessibility of Federal information to the American public. To successfully achieve its mission for FY 2021 and beyond, the CSB will require additional funding in several areas that are described in the object classification detail.

The FY 2021 request includes \$400,000 to implement the new Chemical Incident Reporting Rule. Under its enacting statute, 42 U.S.C. 7412(r)(6)(C)(iii), the CSB must obtain information on accidental releases causing a fatality, serious injury or substantial property damage, and investigate and report subsequent findings to the public. On December 7, 2017, a suit was filed against the CSB in the U.S. District Court for the District of Columbia, seeking a ruling to direct the agency to initiate a rulemaking pursuant to 42 U.S.C. §7412(r)(6)(C)(iii). On February 4, 2019, the district court judge issued his ruling in the case, *Air Alliance Houston v. U.S. Chemical Safety and Hazard Investigation Board*. The judge ordered the agency to produce a rule within one year of the date of the order. The CSB is issuing a final reporting rule in FY 2020 to satisfy the court's order and will establish a secure reporting interface for companies to send their incident reports to the CSB in FY 2021.

The requested increase in FY 2021 also provides full year funding for positions that are to be filled in FY 2020. As of the time of this FY 2021 Budget Request submission, the CSB has several vacant positions for its mission-critical occupation, Chemical Incident Investigator. The agency is currently in the midst of personnel actions to fill vacancies. We expect to fill these positions during FY 2020. In addition, critical staff positions, including the Executive Director and the Director of Finance, are currently vacant. The agency anticipates filling these positions as soon as possible.

The CSB will continue to fill critical vacancies in FY 2020 and anticipates the new investigators will increase its FY 2021 output. With the additional funds provided in FY 2021 the CSB will enhance its infrastructure. The CSB anticipates increases in its administrative and legal requirements with the implementation of a reporting rule, electronic management of investigation records, response to related Freedom of Information Act requests, and advocacy and outreach activities in pursuit of implementing recommendations and disseminating safety information.

<sup>3</sup> House Report 116-100, June 3, 2019.

## CSB Accomplishments

### Investigations

The CSB's first strategic goal is to prevent recurrence of significant chemical incidents through independent investigations. The CSB completed three investigations in FY 2019.

- **Toxic Chemical Gas Release (La Porte, TX):** On November 15, 2014, approximately 24,000 pounds of highly toxic methyl mercaptan were released from an insecticide production unit (Lannate® Unit) at the E. I. du Pont de Nemours and Company (DuPont) chemical manufacturing facility in La Porte, Texas. The release killed three operators and a shift supervisor inside a manufacturing building. They died from a combination of asphyxia and acute exposure (by inhalation) to methyl mercaptan. **The final investigation report was released on June 25, 2019.**
- **Onshore Oil Rig Explosion and Fire (Pittsburg County, OK):** On January 22, 2018, a blowout and rig fire occurred at Pryor Trust 0718 gas well number 1H-9, located in Pittsburg County, Oklahoma. The fire killed five workers who were inside the driller's cabin on the rig floor. They died from thermal burn injuries and smoke and soot inhalation. The blowout occurred about three-and-a-half hours after removing drill pipe from the well. The cause of the blowout and rig fire was the failure of both the primary barrier—hydrostatic pressure produced by drilling mud—and the secondary barrier—human detection of influx and activation of the blowout preventer—which were intended to be in place to prevent a blowout. **The final investigation report was released on June 12, 2019.**
- **Loss of Containment, Fires, and Explosions at Gas Plant (Pascagoula, MS):** On June 27, 2016, a major loss of containment resulted in the release of methane, ethane, propane, and several other hydrocarbons at the Enterprise Products Pascagoula Gas Plant in Pascagoula, Mississippi. The hydrocarbons ignited, initiating a series of fires and explosions that shut down the site for almost six months. Two workers on the night shift when the incident occurred were uninjured. Had the event happened during the day, when a larger number of personnel were working amid the process line, the consequences could have been much worse. Enterprise Products incurred \$10.4 million of expenses due to fire response activities and another non-cash loss of \$7.1 million as a consequence of this incident. **The final investigation report was released on February 13, 2019.**

In addition to the chemical incident investigations completed, the CSB continues to conduct field work, analysis, and report writing on several major investigations. The CSB deployed to four new incidents, released four factual updates on ongoing investigations, and made significant progress in the completion of other open investigations. The agency has continued to focus on the completion of more timely investigation reports to ensure that critical safety recommendations can be released earlier to prevent catastrophic incidents.

## Deployments

- **Fatal Chemical Release (Odessa, TX):** On October 26, 2019, a release of hydrogen sulfide led to the deaths of one worker and one member of the public.
- **Chemical Fire and Explosion (Port Neches, TX):** On November 27, 2019, an explosion and fire occurred at a chemical plant in Port Neches, Texas.
- **Refinery Fire and Explosion (Philadelphia, PA):** On June 21, 2019, there was a release of vapor in the Philadelphia Energy Solutions refinery alkylation unit. The vapor found an ignition source, causing a major fire and multiple explosions. This was one factor leading to the refinery's permanent closure and the loss of more than 1,000 jobs.
- **Specialty Blending Company Fatal Fire and Explosion (Waukegan, IL):** On May 3, 2019, a massive explosion and fire occurred at the AB Specialty Silicones facility in Waukegan, IL, killing four workers and causing extensive damage to nearby businesses.
- **Custom Chemical Blending and Processing Company (Crosby, TX):** On April 2, 2019, a fire and explosion at the KMCO custom chemical processing and specialty chemical manufacturing facility caused one fatality and multiple injuries.
- **Tank Fires and Explosions (Deer Park, TX):** On March 17, 2019, a massive tank fire erupted at the Intercontinental Terminal Company (ITC).

## Ongoing Investigations

- **Manufacturing Facility Explosion (Pasadena, TX):** On May 19, 2018, an explosion injured 21 workers at the Kuraray America EVAL facility in Pasadena, Texas. The facility manufactures ethylene vinyl-alcohol copolymers, sold as EVAL. Kuraray America is a Tokyo-based specialty chemical manufacturer.
- **Refinery Explosion and Fire (Superior, WI):** On April 26, 2018, an explosion and subsequent fire occurred at the Husky Superior Refinery in Superior, WI. The explosion occurred during a scheduled break time and many workers who were previously in the unit before the explosion had moved either into blast-resistant buildings or away from the process unit at the time of the explosion. However, as a result of the explosion, thirty-six people sought medical attention, including eleven refinery and contract workers who suffered OSHA-recordable injuries. In addition, a large portion of the community of Superior, WI was evacuated. **The CSB released a factual investigative update in Superior, WI, in August 2018, and held a public meeting in the community in December 2018.**
- **Combustible Dust Explosion (Cambria, WI):** On May 31, 2017, an explosion occurred at the Didion Milling facility in Cambria, Wisconsin, where sixteen employees were working the night shift. Thirteen people were injured, five fatally. If this incident had occurred twelve hours earlier during the day shift, up to fifty people would have been working in the damaged

buildings and the number of injured and killed could have been considerably higher. The packing facility, where some employees had been working, completely collapsed as a result of the explosion. Significant forensic examination of two gap mills involved in the explosion took place in 2019. Completion of this teardown and examination will provide critical information necessary to complete the investigation. **The CSB released a factual investigative update in May 2018.**

- **Catastrophic Pressure Vessel Rupture (St. Louis, MO):** On April 3, 2017, an overpressure within a steam condensate storage tank at the Loy-Lange Box Company launched the vessel into a neighboring dry-cleaning facility and fatally injured one worker at the box company and three members of the public at the adjacent facility.
- **Hot Work Explosion and Fire (Nederland, TX):** On August 12, 2016, seven workers were injured at the Sunoco Logistics Partners natural gas terminal in Nederland, Texas. The incident involved a flash fire during welding activities.

## Recommendations

The CSB's second strategic goal is to pursue safety change through safety recommendations, outreach, and education. Since its creation, the CSB has issued a total of 841 recommendations to industry, trade associations, standards-setting bodies, and state and Federal agencies to advance chemical safety practices. These are the CSB's primary tools for preventing future chemical incidents and mitigating consequences when they do occur. They drive positive, critical chemical safety change. In FY 2019, the CSB issued 26 safety recommendations as a part of the three previously-mentioned investigations that were closed. They ranged from implementing aspects of process safety management to addressing emergency planning and response, both onsite and within the surrounding communities.

The implementation of CSB recommendations resulted in several significant safety improvements in FY 2019. Of those 841 recommendations, 690 (or 82%) have been closed. Specifically, in FY 2019, the CSB closed 14 recommendations and advanced 16 others from 17 completed investigations.

Of the recommendations addressed in FY 2019, one response from the American Petroleum Institute (API) stands out. On March 23, 2005, the BP Texas City refinery experienced severe explosions and fire in an isomerization unit (ISOM) that resulted in 15 deaths, 180 injuries, and significant monetary losses. The accident was caused by the overfilling of a raffinate splitter tower during startup that, in turn, opened pressure relief devices and dumped flammable liquid into a blowdown drum with a stack that was open to the atmosphere. The flammable liquid released from the stack exceeded the capacity of both the blowdown drum and its stack and was released into the surrounding area where it ignited, resulting in the explosions and fire. Among the findings, the CSB investigation concluded that the ISOM operators were likely fatigued from working long hours over consecutive days during the turnaround of the unit prior to startup. Additionally, the CSB found that the Occupational Safety and Health Administration (OSHA) has no regulations addressing fatigue and that there were no industry safety guidelines or voluntary standards to manage and prevent fatigue as a risk factor. The CSB recommended that the API develop a fatigue standard and that the United Steel Workers (USW) work with API in its development. API issued the ANSI-approved

Recommended Practice (RP) 755 - Fatigue Risk Management Systems for Personnel in the Refining and Petrochemical Industries in April 2010. It was the first-ever fatigue standard for the refining and petrochemical industries. Though it was a tremendous effort as well as innovative, the new fatigue standard fell short of what the CSB intended. As the result of CSB interaction and participation on the RP 755 Revision Committee, a newly revised fatigue standard was issued on May 1, 2019, that provides guidance to employees, managers, and supervisors on understanding, recognizing and managing fatigue in the workplace. It also outlines how owners and operators should establish policies and procedures to address these issues in the workplace. As such, the revised fatigue standard addressed CSB concerns, will definitively enhance future risk reduction related to fatigue issues, and drives positive chemical safety change in the entire industry.

This recommendation, coupled with CSB involvement, is a prime example of how the CSB and its recommendations have a national life-saving impact across the industry.

## **Safety Outreach and Collaboration**

Throughout FY 2019, the CSB targeted its outreach to advance strategic safety topics described in the *Drivers of Critical Chemical Safety Change Program*. This program identifies the most critical chemical safety improvements needed to protect both people and the environment. CSB staff use this program to direct outreach initiatives and ensure that the agency's limited resources are optimized to address the most critical chemical hazards facing the nation. Currently, the CSB has identified four drivers of critical safety change: 1) Combustible Dust Safety; 2) Process Safety Management for the 21<sup>st</sup> Century; 3) Emergency Planning and Response; and 4) Safe Hot Work Practices.

The CSB has also collaborated with other Federal agencies and safety organizations to advance shared safety goals. In August 2019, the CSB participated in the nationwide Safe + Sound Week, partnering with OSHA, the National Institute for Occupational Safety and Health (NIOSH), the National Safety Council, the American Society of Safety Professionals and the American Industrial Hygiene Association to raise awareness and understanding of the value of safety and health programs.

Finally, the CSB released safety video products to view and download, free of charge, on its website and on YouTube. The video products released in FY 2020 include: two full-length safety videos detailing the findings from a fatal incident at an onshore drilling operation in Oklahoma; and a fatal incident at a paper mill in Louisiana. The CSB also released two computer-generated animations in early FY 2020, one of the massive fire and explosion at a refinery in Superior, WI, and the other of a large explosion at a refinery in the highly populated City of Philadelphia. In FY 2020 the CSB will release a new training module focused on the 2005 explosion and fire in Texas City, TX, that fatally injured 15 people.

CSB videos have been viewed more than 19 million times on YouTube, and the agency's YouTube channel has more than 100,000 subscribers.

## FY 2021 Budget Request

The CSB is requesting a budget of \$13.140 million in FY 2021 to execute its unique safety mission and continuing operations, plus a onetime request of \$400,000 for services and equipment to support a new Chemical Incident Reporting Rule initiative, for a total request of \$13.540 million.

Over 90% of the funds requested in FY 2021 will be distributed into four main budget categories: personnel compensation, personnel benefits, rent, and other services. Of the requested \$13.540 million, compensation costs, including fringe benefits, account for \$8.921 million – or 65.88% of the total agency budget. To procure mandatory services provided by other government agencies, such as payroll, personnel management, accounting, procurement, occupational health services, and other non-governmental contractors, the CSB requests \$2.595 million – or 19.17% of the agency’s budget request. Finally, \$842,000 – or 6.22% – is requested for rent, which includes office space in Washington, DC, and Denver, Colorado.

The requested funding will allow the CSB to maintain programmatic activities that support its three strategic goals.

- **Investigations.** The CSB evaluates several chemical incidents that occur every day across the country and initiates investigations where there is a significant chemical safety issue with high potential for learning. To complete these investigations, the agency identifies the root causes of chemical incidents, issues recommendations to eliminate safety gaps and shares findings broadly across industries that use hazardous chemicals. CSB investigations are transparent. The agency conducts press briefings and public hearings to share findings, obtain additional facts and address concerns from members of the community. Investigative materials are available on the agency’s website.
- **Safety Outreach.** The agency collaborates with stakeholder groups and works with recommendations recipients – including government entities, safety organizations, trade associations, corporations, labor organizations, emergency response organizations, and educational institutions – to implement the Board’s safety recommendations. The CSB continues to release safety videos and other products, in both English and Spanish, to ensure that valuable safety lessons are available to broad audiences to maximize their preventive impact.
- **Operational Excellence.** The CSB strives for continual improvement to promote organizational efficiency. In FY 2020 the agency will continue to implement its Human Capital and Succession Plans. The CSB will also continue efforts to improve management metrics and accountability to ensure that investigations are completed in a timely manner and resources are strategically allocated to advance chemical safety change. Finally, the CSB will continue using its IT system to support the growing electronic records environment and increase productivity using cloud-based applications and systems.

The CSB currently receives information on approximately 225 incidents annually, gleaned from the media and the NRC. However, because of the CSB chemical incident reporting rule, the CSB anticipates receiving a higher volume of reporting. All incident reporting will require the submission of standard information via a web-based reporting platform. An interface between the National Response Center and CSB data management system will also be required. The CSB anticipates collecting data via free text fields (for specific names), drop down menus, check boxes, larger text boxes for narratives, and through attached documents.

The requested FY 2021 increase is primarily to provide full year funding for positions filled in FY 2020. At this time of the 2021 Budget Request submission, the CSB has several vacant positions for its mission-critical occupation, Chemical Incident Investigator. The agency has prioritized the recruitment and retention of candidates for the chemical incident investigator vacancies. In addition, critical support and administrative staff positions are currently vacant and will be filled in FY 2020.

With critical vacancies filled in FY 2020, the CSB anticipates an increased ability to conduct more investigations in FY 2021. As a result, slight increases will be needed for investigation-related costs such as travel and consultants, along with the additional cost to fully fund positions in FY 2021.

## **Conclusion**

The CSB's FY 2021 budget request for \$13.540 million allows the CSB to execute its unique safety mission and strengthen its capacity to conduct root cause investigations of catastrophic chemical incidents. By sharing the safety lessons from its incident investigations with industry, workers, and the public, the CSB maintains its role as a premier resource for chemical safety lessons learned in FY 2021. The resources developed by the CSB are used nationwide to prevent the loss of life, injuries, and damage to surrounding communities that result from these preventable chemical incidents. This investment in the CSB allows the agency to become more effective in completing and distributing its critical life-saving work. As the agency continues to investigate chemical incidents, the Board's recommendations will draw on its robust history of chemical safety knowledge so that new and emerging industries will benefit from the best practices and safety advancements implemented by their predecessors to achieve greater prosperity. The CSB is a modest Federal investment with a large potential return: improved safety practices and long-term economic sustainability for all types of industries that use hazardous chemicals, which in turn better protects the environment and saves more lives.

#### IV. Budget by Object Classification Category

The U.S. Chemical Safety and Hazard Investigation Board (CSB) requests \$13.540 million for FY 2021. The funding requested will enable the CSB to achieve its core mission, as required by the Clean Air Act Amendments of 1990. The proposed budget for FY 2021 is shown in the table below by budget object classification with a comparison to the FY 2020 estimated costs. The table is supported with a narrative explanation of the amount requested for each budget object classification.

**Budget Object Classification Table**  
Fiscal Years 2020 and 2021

Budget Object Class	Budgeted FY 2020*	Requested FY 2021	Change FY 2020-2021	
			\$	%
11 Personnel Compensation	5,894,000	6,717,000	823,000	13.96%
12 Personnel Benefits	1,810,000	2,204,000	394,000	21.77%
<b>Subtotal Personnel Costs</b>	<b>7,704,000</b>	<b>8,921,000</b>	<b>1,217,000</b>	<b>15.80%</b>
21 Travel	510,000	548,000	38,000	7.45%
22 Transportation of Things	0	0	0	0.00%
23.2 Space Rental Payments	750,000	842,000	92,000	12.27%
23.3 Communications, Utilities and Misc.	238,000	216,000	-22,000	-9.24%
24 Printing and Reproduction	23,000	20,000	-3,000	-13.04%
25 Other Services	2,378,000	2,595,000	217,000	9.13%
26 Supplies and Materials	277,000	293,000	16,000	5.78%
31 Equipment	120,000	105,000	-15,000	-12.50%
<b>Totals</b>	<b>12,000,000</b>	<b>13,540,000</b>	<b>1,540,000</b>	<b>12.83%</b>
<b>FTE</b>	<b>47</b>	<b>47</b>	<b>0</b>	<b>0.00%</b>

\* [Public Law No. 116-94](#)

## Budget Object Classification Detail

### 11.0 Personnel Compensation

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$5,894,000	\$6,717,000	\$823,000	13.96%

The budget request for FY 2021 includes \$6,717,000 to fund direct payroll costs for five board members and 41 staff members. This object class includes promotions and step increases to retain and advance entry and intermediate level employees.

### 12.0 Personnel Benefits

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$1,810,000	\$2,204,000	\$394,000	21.77%

CSB personnel benefits include the government's contributions to the CSRS and FERS retirement programs; life and health insurance programs; the student loan repayment program; the Transit Subsidy Program; and the Thrift Savings Plan. The FY 2021 request reflects benefits for five board members and 41 staff members.

### 21.0 Travel

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$510,000	\$548,000	\$38,000	7.45%

CSB board members and staff travel are required to travel to conduct the agency's core work of investigating incidents and advocating safety and change through recommendations and outreach. In addition, travel is required between CSB offices in Washington, DC, and Denver, Colorado, and to certain training courses. CSB requests an increase of \$38,000 to provide for additional travel, primarily to deploy to more incidents.

### 22.0 Transportation of Things

The CSB does not anticipate employee relocation shipment costs in FY 2021.

**23.2 Space Rental Payments**

<b>Change FY 2020-FY 2021</b>			
FY 2020	FY 2021	Amount	%
\$750,000	\$842,000	\$92,000	12.27%

The increase is largely due to a higher cost space for the Denver, Colorado, office and anticipated real estate tax and operating cost increases for the Washington, DC, office.

**23.3 Communications, Utilities and Misc.**

<b>Change FY 2020-FY 2021</b>			
FY 2020	FY 2021	Amount	%
\$238,000	\$216,000	-\$22,000	-9.24%

Communication and postage costs are projected to be \$216,000 in FY 2021, a significant reduction from FY 2020. This mainly includes \$200,000 for a new GSA Enterprise Infrastructure Solutions contract to allow the CSB to modernize Internet and phone services. CSB will move from outdated 20 Mbps partial T3 Internet connections to 50 Mbps Ethernet Internet connections for both locations, Denver and DC offices; replace the current phone systems serviced from various vendors with a cloud-based VoIP phone for all CSB employees, including remote workers; and obtain Unified Communications Service (UCS) that will be integrated seamlessly with all key components required for robust enterprise-wide communications, providing sufficient internet bandwidth for the volume of data transmitted across the agency and to webcast meetings to the public. Other communications and utilities costs include \$8,000 for postage and express mail. Other costs are related to building security and continuity of operations.

**24.0 Printing and Reproduction**

<b>Change FY 2020-FY 2021</b>			
FY 2020	FY 2020	Amount	%
\$23,000	\$20,000	-\$3,000	-13.04%

The CSB anticipates minimal change in printing and reproduction costs in FY 2021. The slight reduction is due to lower job advertisement costs as new hires are expected in FY 2020.

## 25.0 Other Services

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$2,378,000	\$2,595,000	\$217,000	9.13%

A total of \$2,595,000 is requested for services in FY 2021. Requirements in this BOC fall into two basic categories: interagency agreements for services provided by other Federal agencies and contractual services provided by non-Federal sources. Additional information on each category is provided in the following paragraphs.

**Services Provided by Other Federal Agencies.** A total of \$992,000 is requested for services provided by other Federal agencies. These services include \$714,000 for financial, travel, and procurement services provided by the Bureau of the Fiscal Service (BFS) in the Department of the Treasury; and \$169,000 for personnel and payroll services provided by the Interior Business Center (IBC) in the Department of the Interior. The remaining funds will be used for other interagency agreements with Federal Occupational Health for investigator physical examinations and respirator fit testing, incident notification services provided by the United States Coast Guard's National Response Center (NRC), HSPD-12 compliance, Employee Assistance Program (EAP) support and other government-provided services.

**Other Contractual Services.** The CSB procures a variety of services to support its mission, including expert consultants for investigations and testing (\$550,000), support for safety animation and video production (\$300,000), training (\$130,000), information technology software maintenance (\$100,000), and website hosting (\$22,000).

## 26.0 Supplies and Materials

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$277,000	\$293,000	\$16,000	5.78%

The amount of \$293,000 is requested for supplies and materials in FY 2021, including books, reference materials and subscriptions (\$195,000), general office and computer supplies (\$46,000), field safety supplies (\$30,000), and outreach materials (\$32,000).

## 31.0 Equipment

Change FY 2020-FY 2021			
FY 2020	FY 2021	Amount	%
\$120,000	\$105,000	-\$15,000	-12.50%

Equipment costs are reduced in FY 2021 mostly because of fewer office furniture purchases anticipated in FY 2020 and because CSB's Denver office has not moved to a new location.

**V. Additional Tables**

**CSB Appropriations by Fiscal Year  
(Dollars in Millions)**

**Salaries & Expenses**

<b>Fiscal Year</b>	<b>One-Year Funds</b>	<b>Two-Year Funds</b>	<b>Total Funds</b>
1998	\$4.00	\$0.00	\$4.00
1999	6.50	0.00	6.50
2000	7.97	0.00	7.97
2001	4.99	2.49	7.48
2002	5.34	2.50	7.84
2003	7.31	0.50	7.81
2004	8.20	0.00	8.20
2005	9.03	0.00	9.03
2006	9.06	0.00	9.06
2007	9.11	0.00	9.11
2008	9.26	0.00	9.26
2009	10.20	0.00	10.20
2010	11.15	0.00	11.15
2011	10.78	0.00	10.78
2012	11.13	0.00	11.13
2013	11.20	0.00	11.20
2014	11.00	0.00	11.00
2015	11.00	0.00	11.00
2016	11.00	0.00	11.00
2017	11.00	0.00	11.00
2018	11.00	0.00	11.00
2019	12.00	0.00	12.00
2020	12.00	0.00	12.00
2021 <sup>a</sup>	13.54	0.00	13.54

<sup>a</sup> Requested.

**Emergency Fund <sup>b</sup>**

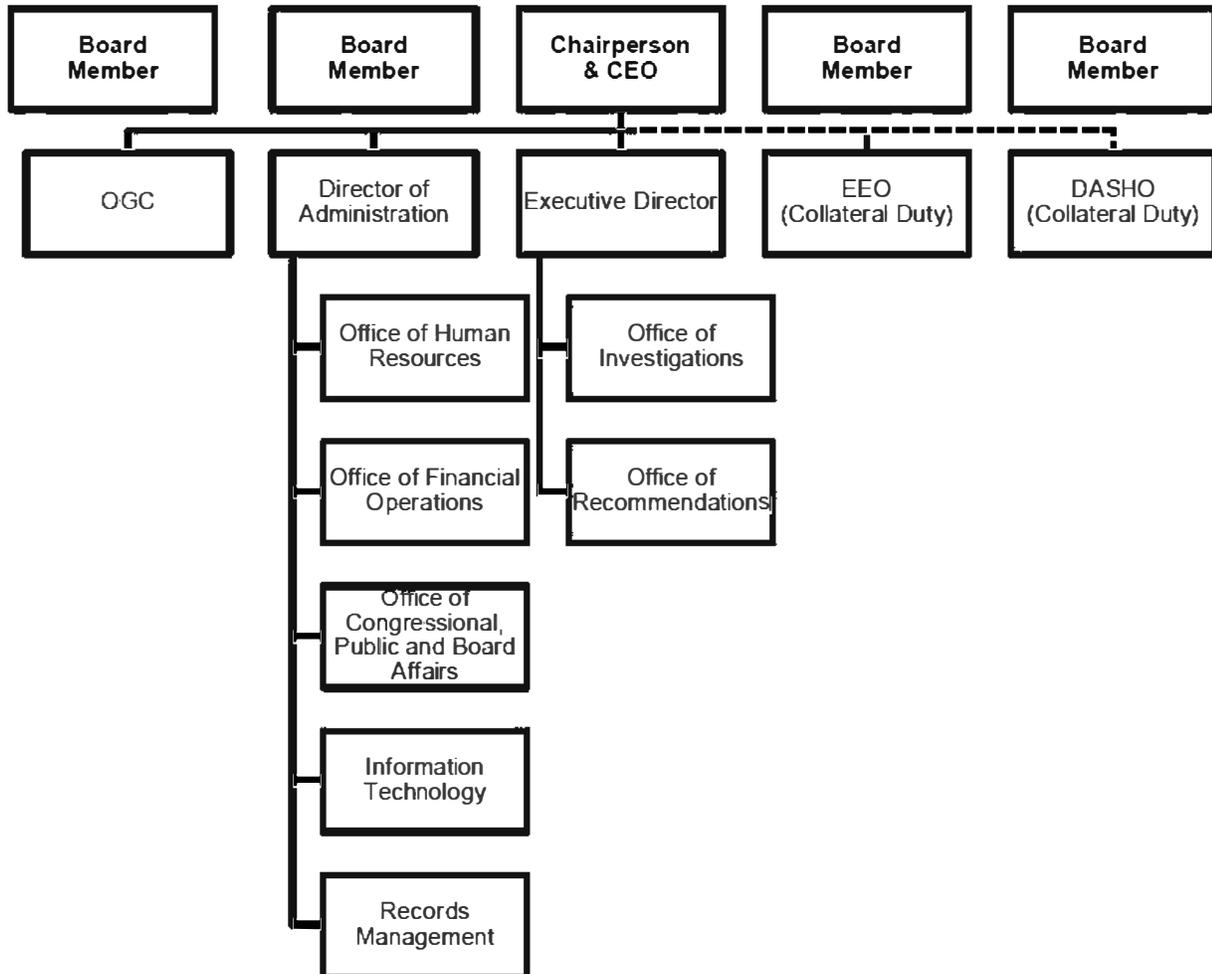
<b>Fiscal Year</b>	<b>New Funding</b>	<b>Amount Spent to Date</b>	<b>Total Available</b>
2004	\$0.44	\$0.00	\$0.44
2005	0.40	0.00	0.84

<sup>b</sup> The Emergency Fund was established in FY 2004. It provides a funding mechanism so periodic incident investigation cost fluctuation can be met without delaying critical phases of the investigations. It is no-year funding, meaning it is available until expended.

### CSB Personnel Data

<b>Grade</b>	<b>On Board 9/30/2017</b>	<b>On Board 9/30/2018</b>	<b>On Board 9/30/2019</b>	<b>Projected FY 2020</b>	<b>Requested FY 2021</b>
GS-7	0	0	0	0	0
GS-9	3	0	0	1	1
GS-11	0	3	2	3	3
GS-12	5	2	2	3	3
GS-13	5	6	6	8	8
GS-14	15	8	9	14	14
GS-15	9	7	7	10	10
Executive	4	3	3	5	5
SES	1	2	2	3	3
<b>Totals</b>	<b>42</b>	<b>31</b>	<b>31</b>	<b>47</b>	<b>47</b>

## Chemical Safety & Hazard Investigation Board Organization Chart



## **Recommended Appropriations Language**

### **CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD** *Federal Funds*

#### **SALARIES AND EXPENSES**

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, \$13,540,000. Provided, that notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: Provided further, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.



## U.S. Chemical Safety and Hazard Investigation Board

### Board Orders

Some agencies refer to this type of document as a “management directive.” A board order contains the U.S. Chemical Safety and Hazardous Investigation Board’s policies and procedures as to the designated subject matter.

The forty-eight board orders, which cover Board voting, the work of the agency (for example, investigations and recommendations), personnel matters, etc., provide guidance to agency leadership and staff. The Office of General Counsel, as well as the appropriate subject matter expert, provide additional guidance when requested.



## U. S. Chemical Safety and Hazard Investigation Board COVID-19 Return to the Workplace Plan

### INTRODUCTION

The U.S. Chemical Safety and Hazard Investigation Board (CSB) will use a three-phased approach for re-occupancy of our Washington, District of Columbia and Denver, Colorado office facilities in order to meet the goal of safely returning our employees to the workplace in accordance with the Office of Management and Budget (OMB) and Office of Personnel Management (OPM) [Memorandum M-20-23](#), "*Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again*". The memorandum provides a plan to ramp back up Federal Government operations to the maximum extent possible, and, as local conditions warrant, to resume normal office operations in light of the COVID-19 pandemic.

The CSB's plan focuses on gating criteria that must be satisfied before proceeding to the next phase in the plan. For example, the specified criteria must be met before transitioning from the Pre-Planning Phase to Phase One, before moving from Phase One to Phase Two, and before moving from Phase Two to Phase Three. Transition between phases is also dependent on there being no evidence of a rebound or resurgence in COVID-19 cases.

### EXPECTATIONS FOR EACH PHASE

For the purposes of reopening, the CSB will generally follow the lead of state and local governments in the Washington Metro Area and Denver Metro Area on a phased reopening approach. We are currently in the pre-planning phase and Management will provide subsequent updates as we approach Phase 1 of reopening. The CSB anticipates that a very limited number of employees will return onsite during Phase 1, an increased number in Phase 2, and most employees returning in Phase 3.

### FACTORS CONSIDERED BEFORE REOPENING

The CSB will use all available public information from state and local government sources to make informed decisions to reopen our offices. Decisions to resume office operations will be based on whether the federal gating criteria has been met in order to begin phased reopening.

- **Gating Criteria 1 – Symptoms:** Downward trajectory of influenza-like illness reported within a 14-day period AND downward trajectory of COVID-like syndromic cases within a 14-day period.
- **Gating Criteria 2 – Cases:** Downward trajectory of documented cases within a 14-day period OR downward trajectory of positive tests as a percent of total tests within a 14-day period (flat or increasing volume of tests).
- **Gating Criteria 3 – Hospitals:** Treat all patients without crisis care and have robust testing program in place for at-risk healthcare workers, including emerging antibody testing.

The agency will also take into account the availability of face coverings, Personal Protective Equipment (PPE), and cleaning supplies and services in addition to transportation options available to staff

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## PRE-PLANNING PERIOD

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The preplanning period involves planning and preparing CSB offices to mitigate risk from COVID-19 when CSB offices are reopened. The following actions are currently underway:

### COMMUNICATION

CSB management officials will use a variety of communication methods (e.g., virtual All-Hands meeting, emails, phone calls, etc.) to inform employees about the return-to-workplace process.

### TELEWORK

Mandatory telework for all staff.

### EMPLOYEES

Only employees designated by Management are permitted in the office.

### FACILITIES

- Monitor local case trajectory and conditions based on the gating criteria. The CSB COVID Safety Team will continuously monitor the local conditions in Washington Metro Area and Denver Metro Area to advise the Chairman when to change phases.
- Schedule initial deep cleaning and subsequent frequent/routine cleaning of all common areas and conference rooms.
- Evaluate building ventilation systems to see if filters can be upgraded, or airflow can be increased
- Redesign of open workspaces (e.g., reception areas) that do not allow for social distancing
- Establish enhanced entrance screening criteria and protocols to determine whether an individual (e.g., Federal employee, onsite support service contractor, or visitor) may enter the office.
- Procure an adequate supply of PPE (respirators and gloves) and face masks for staff.
- Procure hygiene items, such as hand sanitizer stations, wipes and cleaning solutions, and install them at CSB office entrances and high traffic areas within the office.
- Increase signage reminding all employees to use proven hygiene practices and social distancing protocols, to stay home when ill, and to report any COVID-like symptoms to management.
- Develop an online repository for sharing COVID-19 information agency-wide.
- Determine process for reporting COVID-19 cases within the agency.
- Determine process for mail and package deliveries and pickup.

### VISITORS/CONTRACTORS

- Visitors are not permitted to enter the office.
- Pre-approved contractors are permitted to access the office under the following circumstances:
  - Prescheduled visits only
  - Escorted by CSB representative and limited to areas where work needs to be performed
  - Follow CSB policies regarding use of face coverings, hygiene practices and social distancing

## **TRAVEL**

Only mission essential, time sensitive business travel will be considered based on risk assessment review and approval at the Director level (see Appendix A). Any local requirements for quarantining upon return from travel will be followed. Special precautions for preventing COVID exposures need to be followed while traveling. See travel FAQ document for further guidance.

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# **PHASE 1**

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## **COMMUNICATION**

CSB management officials will use a variety of communication methods (e.g., virtual All Hands meeting emails, phone calls, etc.) to inform employees about the return-to-workplace process. A SharePoint page will be maintained to provide agency personnel with a central place to access COVID-related information.

## **TELEWORK**

*Mandatory* telework lifted.

## **EMPLOYEES**

- Returning to the office will be based on the nature of the employee's work; mission-critical employees whose work is best performed onsite would return to the office, including those who are needed to support limited facility operations.
- Staggering of employee schedules to promote social distancing and/or creating rotating groups of employees who alternate schedules is appropriate.
- Employees who have self-certified to their higher risk for COVID-19 based on CDC guidelines will remain on full-time telework or weather and safety leave (WSL), as appropriate. However, employees who would be included in Phase 1 but for their vulnerability status may voluntarily return and will not be excluded from consideration based on the perceived or self-identified vulnerability status
- Employees who live with or provide care for individuals in the vulnerable population will not be required to return to the office.
- Employees with dependents whose schools are closed and/or who lack dependent care may remain on full-time telework.
- Employees with transportation challenges (e.g., suspended or limited public transportation options, commuter disruptions, public transportation options that do not allow for appropriate social distancing) may remain on full-time telework.

## **FACILITIES**

- Monitoring local cases and conditions same as in preplanning phase
- Social distancing protocols will be implemented for Phase 1 and will be revisited prior to initiating subsequent phases.
- Face coverings are expected to be worn and are to be used by all employees partaking in any in-person human interactions until 100 percent reopening is achieved. This includes, but is not limited to, when employees enter and exit the building, walk in the hallways, ride elevators, enter bathrooms, and attend in person meetings. Face covering are not

required if you are working alone in an office. The CSB will provide cloth face coverings to all office employees until the agency reaches its 100 percent reopening status. The face coverings will be available at each office's entrances. Employees will not need a new face covering every day, the face coverings that CSB purchased can be reused and washed several times. Replace your face covering only when you observe signs of deterioration that impacts its effectiveness. Any employee who wishes to use his/her own personal face covering or mask may do so providing it meets CDC guidelines. Face coverings shall be worn in accordance with CDC guidelines (see <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-wear-cloth-face-coverings.html>).

- Common areas where employees are likely to congregate will continue to be closed until Phase 3.
- To the extent practical, meetings will continue to be held using virtual tools. In-person meetings will require recommended social distancing (six feet) between participants and will include a limited number of attendees. Conference rooms will have modified seating and capacity controls to ensure social distancing. Wiping down room/furniture/equipment is the responsibility of the meeting attendees at end of the meeting. CSB will supply appropriate cleaning supplies in conference rooms for this task.
- Entrance Screening. CSB will utilize a self-assessment tool (see attachment 1). Temperature checks will not be conducted in the offices. Returning personnel will receive communications advising that they may not enter the workplace if they have COVID-like symptoms, including a temperature over 100.4 degrees. Notices to this effect will be posted outside all CSB office entrances (see attachment 2). Individuals answering "yes" to any of these questions will not be permitted to enter the facility. CSB federal employees will be returned to telework or placed on sick leave or Weather and Safety Leave (WSL), as appropriate, until they are able to answer the questions satisfactorily.

#### **REPORTING CONFIRMED OR SUSPECTED CASES OF COVID-19**

The procedures outlined in Appendix B will be followed for reporting confirmed or suspected cases of COVID-19 at the CSB.

#### **VISITORS/CONTRACTORS**

- Visitors and contractors are strongly discouraged from entering the office.
- When an office visit is necessary:
  - Restrict visitors/contractors to essential, time-sensitive, scheduled visits only;
  - Escort visitors/contractors and limit their access to non-essential areas; and
  - Visitors/contractors must adhere to the agency's face covering, hygiene, and social distancing guidelines.

#### **TRAVEL**

Only mission essential, time sensitive business travel will be considered based on risk assessment review and approval at the Director level (see Appendix A). Any local requirements for quarantining upon return from travel will be followed. Special precautions for preventing COVID exposures need to be followed while traveling. See travel FAQ document for further guidance.

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## PHASE 2

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### COMMUNICATION

CSB management officials will use a variety of communication methods (e.g., virtual All Hands meeting, emails, phone calls, etc.) to inform employees about the return-to-workplace process. A SharePoint page will be maintained to provide agency personnel with a central place to access COVID-related information,

### TELEWORK

*Maximum* telework lifted.

### EMPLOYEES

- Returning to the office will be based on the nature of the employee's work; mission-critical employees whose work is best performed onsite would return to the office, including those who are needed to support limited facility operations.
- Additional employees who have a practical and operational need to be onsite may return to the office including senior leadership.
- Employees who have self-certified to their higher risk for COVID-19 based on CDC guidelines will remain on full-time telework or weather and safety leave (WSL), as appropriate. However, employees who would be included in Phase 2 but for their vulnerability status may voluntarily return and will not be excluded from consideration based on the perceived or self-identified vulnerability status
- Employees who live with or provide care for individuals in the vulnerable population will not be required to return to the office.
- Employee's with dependents whose schools are closed and/or who lack dependent care may remain on full-time telework.
- Employees with transportation challenges (e.g., suspended or limited public transportation options, commuter disruptions, public transportation options that do not allow for appropriate social distancing) may remain on full-time telework.

### FACILITIES

- Monitoring local cases and conditions same as in preplanning phase
- Social distancing protocols: Same as Phase 1
- Face Coverings: Same as for Phase 1
- Common areas: Same as for Phase 1
- In-person meeting restrictions: Same as Phase 1
- Entrance Screening: Same as for Phase 1

### REPORTING CONFIRMED OR SUSPECTED CASES OF COVID-19

Same as for Phase 1, see Appendix B.

### VISITORS/CONTRACTORS

- A limited number of visitors and contractors may enter the office.
- When an office visit is necessary:
  - Restrict visitors/contractors to essential, time-sensitive, scheduled visits only;
  - Escort visitors/contractors and limit their access to non-essential areas; and
  - Visitors/contractors must adhere to the agency's face covering, hygiene, and social distancing guidelines.

## **TRAVEL**

Same as Phase 1, see Appendix A.

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## **PHASE 3**

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***\*\*\*Phase 3 will be continuously evaluated based on risk. Adjustments will be made as necessary.***

### **COMMUNICATION**

CSB management officials will use a variety of communication methods (e.g., virtual All Hands meeting, emails, phone calls, etc.) to inform employees about the return-to-workplace process at least seven (7) days in advance. A SharePoint page will be maintained to provide agency personnel with a central place to access COVID-related information.

### **TELEWORK**

All employees return onsite.

### **EMPLOYEES**

- All employees will return to the office and resume their normal work schedules and telework agreements.
- Employees who have self-certified to their higher risk for COVID-19 based on CDC guidelines will need to request a reasonable accommodation in accordance with [Board Order 032 – Reasonable Accommodation Procedures](#).
- Employees may request telework under unique circumstances in accordance with [Board Order 037 – Telework Program](#) if:
  - The employee lives with or provides care for individuals in the vulnerable population;
  - The employee has dependents whose schools are closed and/or who lack dependent care; or
  - The employee has commuter disruptions.

### **FACILITIES**

- Monitoring local cases and conditions same as in preplanning phase until pandemic is lifted
- Offices will reopen with up to 100% of employees and/or contractors returning.
- Staff should continue to observe social distancing protocols.
- Employees are not required, to wear face coverings while in Washington, DC or the Denver offices; however, employees who wish to use a face covering should bring one to the office. Depending on availability and demand, face coverings will be provided for employees upon request.
- Common areas, break areas and conference rooms will be open.
- To the extent practical, in-person meetings will resume.
- Entrance screening will not be required

**REPORTING CONFIRMED OR SUSPECTED CASES OF COVID-19**

Same as for Phase 1

**VISITORS**

Resumption of normal visitor policy

**TRAVEL**

Normal business travel may resume.

## Appendix A

### **Risk Management Protocol for CSB Field Investigative Activity during the COVID-19 Pandemic**

#### **SCOPE**

This guidance will apply to initial deployment and any subsequent field investigation activities conducted by CSB investigators and support personnel, including contractors, during the COVID-19 pandemic through Phase 2 of this plan. The CSB will limit initial incident deployments and post-deployment field investigation activities to those that can be successfully accomplished utilizing local travel options or where the loss of perishable evidence is highly likely. CSB investigators selected to perform such activities through Phase 2 will notify their supervisor if conditions prevent them from safely traveling to or performing their duties at incident locations. Investigators should consider whether they (or those with whom they live) are at higher risk for severe illness from the SARS-CoV-2<sup>1</sup> /COVID-19 before participating.

#### **PROTOCOL**

The following controls shall be used to mitigate the risk of SARS-CoV-2/COVID-19 to CSB personnel conducting field investigative activities:

##### Deployment Criteria

- The importance of a rapid response to an incident site or conducting ongoing investigative activities is secondary to ensuring the safety and health of all CSB investigative personnel, investigation participants, first responders, and the public. The need to respond to an incident in a timely manner should never preclude an accurate and thorough risk assessment, including the risk of potential SARS-CoV-2/COVID-19 exposures to CSB personnel. The CSB will delay or cancel a proposed deployment or ongoing investigative activities whenever the on-scene conditions are unknown or when hazards cannot be adequately controlled.
- Travel to or from areas requiring mandatory quarantine periods, or mandatory COVID-19 testing, will not be considered through Phase 2 of this plan unless the investigation activities are determined to be mission critical.

##### Preparation

- Prior to initiating any field investigation activity during the COVID-19 pandemic, the *COVID-19 Risk Management Checklist* (see sample below) shall be completed by the traveling investigator/Investigator-in-Charge and approved by the Executive Director of Investigations and Recommendations.
- While no standardized criteria exist for classifying a particular locality as having an elevated SARS-CoV-2/COVID-19 risk, the traveling investigator, Investigator-in-Charge or designated staff person needs to review publicly available information and determine whether the area the investigator(s) will be traveling from or to may be experiencing an outbreak of the virus that could increase the potential for infection. Possible sources of information can include the state, county, or city health department, or some commercial media outlets that compile daily statistical updates from multiple sources. See the CSB COVID SharePoint page for links to resources that can be used.

<sup>1</sup> SARS-CoV-2 - Severe acute respiratory syndrome coronavirus 2 is the virus strain that causes COVID-19

- When planning a field investigation activity that will involve an overnight stay of one or more days, the traveling investigator/Investigator-in-Charge needs to obtain information regarding the following:
  - Local ordinances regarding infection control practices required in public areas (e.g., use of face masks, social distancing, etc.) and any travel restrictions for traveling to or returning from the location. Sources of this information may include local first responders or law enforcement; proprietors of facilities where investigation activities will be conducted. Remember to communicate this information to any entities that will be participating.
  - Research availability of suitable hotel/motel accommodations and food providers (e.g., lodgings that follow CDC/American Hotel and Lodging Association cleaning guidelines; lodgings that prepare food on their premises; and/or local food sources that offer drive-thru, carry out, or contactless delivery options).
  - Keep in mind that state-mandated travel restrictions vary widely, even when traveling via POV, so if your travel will extend beyond a single state's borders check for any self-quarantine restrictions on the state's official tourism website. Some states enforce these measures when you attempt to check into a hotel, making you sign a certification and fines can be imposed for non-compliance. Sometimes there may be exceptions for "essential workers," whether or not CSB investigators would fall into this category is best discussed with OGC. Road checkpoints may also be initiated by states, so check AAA's COVID-19 map at <https://triptik.aaa.com/> (membership not required) before traveling.
- The traveling investigator/Investigator-in-Charge shall ensure that adequate supply of PPE, face masks, hand sanitizer and wipes are available for investigative and non-investigative portions of the trip, plus a reserve.

#### Transportation

- To the extent practical, the CSB will maximize the use of local CSB investigators for on-scene and follow-up activities during the COVID-19 pandemic. Local is defined as being located within a distance that will allow for travel from the participating investigators' homes, utilizing personal vehicles, within standard duty hours (not to exceed 10 hours total travel time). Transportation costs will comply with federal travel regulations and/or other agency guidelines. Identify alternative lodging that can be used in the event that the 10 hour total travel time is exceeded due to traffic/road construction delays, adverse weather, investigation activities taking longer than planned, etc.
- When traveling via POV, consider the following:
  - Pack a cooler with drinks and snacks, including high-protein foods that will not go bad.
  - Pack a restroom break kit including: bars of soap, paper towels for drying hands and using it to open doors, toilet seat covers, hand sanitizer, and wipes when soap and water are not available.
  - When you need to stop for food, gas, or supplies: (1) Wear a face covering when you are outside your vehicle; (2) Wear gloves, or use a paper towel, while you pump gas and throw it away when you are finished; (3) Disinfect your credit card after use; (4) Wait to use the restroom until after you pump gas, and wash your hands before and

after doing so; and (5) Wash your hands or use hand sanitizer after returning to your car.

- Public transportation (e.g., commercial air carrier, bus, rail, ride sharing, and rental cars) should only be used when no feasible private transportation options are available. If public transportation is to be utilized, the following provisions may be authorized in an effort to reduce public exposure to COVID-19 while traveling:
  - Travel to/from airports using your POV
  - Park at airport in closer lots so as to minimize use of shuttles to remote parking
  - Where available, use direct commercial flights to the investigation location to minimize public exposure in airports while making connections
  - Use separate rental cars for each investigator to maintain social distancing
- While rental car companies have instituted more rigorous cleaning procedures, consider wiping down high-touch areas (See CSB COVID-19 SharePoint page for further guidance) and increase internal ventilation through the windows or air conditioning. Ensure the car's climate control settings bring in outside air, rather than simply recirculating internal air, if possible.
- When using public transportation, all traveling investigator(s) shall follow CDC recommendations. Consult the CSB COVID-19 SharePoint page for this guidance.

#### Overnight Lodging and Meals

- Where possible, stay in lodgings that follow CDC or American Hotel and Lodging Association enhanced cleaning guidelines. Upon arrival, you should disinfect high-touch surfaces, including door-knobs, remote controls and light switches, and increase room ventilation.
- Where possible, procure food from sources that offer drive-thru, carry out, or contactless delivery options.
- Traveling Investigators may consider bringing their own food and beverages to the site if their expected visit is over mealtimes, or for the entirety of their planned trip if desired.

#### What to Do if COVID-19 Symptoms Develop While Deployed

- Notify your supervisor
- Notify other investigators you may be traveling with and isolate yourself from them
- Call the hotel front desk and see if they have a physician who could guide you, or call a local emergency department to get some guidance
- If your symptoms are mild and you are advised to go to an emergency department, be sure to wear your mask
- If your symptoms are more severe and you are experiencing shortness of breath, dizziness or high fever, then the best thing to do is to call 911.
- If you are tested for the COVID-19 virus, please share the results with Human Resources as soon as possible.
- The CSB will arrange to have COVID-19 positive employees transported to home/local hospital for care and treatment, if you are asked to quarantine or are admitted to the hospital.

## **CSB Site Investigation Activity Protocol**

*Note: A handout of this portion of the protocol in Adobe PDF format is available on the CSB COVID-19 SharePoint page which can be provided to other participants in CSB investigation activities*

### **General**

- If at any point during the investigative activity this protocol cannot be followed, the activity should be immediately suspended, and possibly cancelled entirely and rescheduled to a time when adequate safeguards can be put in place. CSB staff and other investigative participants may exercise this option at any point during the activity and should contact their supervisor for additional guidance accordingly
- All investigative work must be conducted at incident sites or facilities with adequate space to allow for social distancing and where access by non-participating persons (and the public) can be controlled.
- Any participants in CSB involved in investigative activities must be advised of this protocol and should agree to comply with it.
- All participating personnel should be symptom-free for at least the 14 days preceding the CSB investigative activity. Under no circumstances should any participants have a suspected or confirmed SARS-CoV-2/COVID-19 infection, nor should any participant have been exposed to a known infected person within the preceding 14 days.
- The investigator/Investigator-in-Charge should maintain a list of all investigation participants to include their name, affiliation and contact information.
- Precautions should include (but are not limited to): Wearing a cloth face covering when social distancing is difficult to maintain (and as required by local ordinance), practice hand hygiene by frequently washing or sanitizing, ensure that there is adequate PPE for the investigative, non-investigative, and travel portions of the activity, plus a reserve. See detailed list of precautions in separate section below.
- Generally, the presence of individuals at an incident site should be limited to those necessary to the successful completion of the investigation. This includes CSB investigative staff, other federal regulatory agency inspectors, and recovery personnel. To the extent practical, the number of additional persons present should be limited to only the first responders necessary to provide accident site safety and security (police, fire, and EMS); facilitators to provide access to property and insurance adjustors should only be present during times where their assistance is needed.
- Investigative interviews and brief introductory interactions with family members may be conducted in-person when social distance can be maintained and cloth face coverings are used. In situations where this is not possible, interviews should be conducted telephonically, or using virtual meeting platforms. This also includes any interviews conducted during the post on-scene phase of the investigation.
- In-person press briefings should not be conducted. All press inquiries should be directed to CSB media relations.
- On-scene meetings (organizational, progress, collaborations, etc.) should be held in areas that are well ventilated and have adequate space to allow for proper social distancing. Even when social distancing can be achieved, face coverings should still be worn. Exchange of physical items and documents should be reduced to the extent practical, and electronic exchange of information should be maximized.

- To the extent practical, CSB investigation activities should be scheduled in advance, and when possible, damaged processing/components should be quarantined for 7 days prior to the scheduled examination.
- All indoor work areas should be well-ventilated

#### Personal Protective Equipment (PPE)

The following PPE (at a minimum) must be available to all persons participating in the CSB investigation activity and should be used per the guidance provided below.

- Cloth face coverings (minimally), or other respiratory protection (N95/P100/etc.).
- Disposable nitrile and leather work gloves (or similar equivalents).
- Hand sanitizer containing at least 60% alcohol (for use when facilities for hand washing are not readily available).
- Cleaning and disinfectant agents or wipes suitable for the environment, tools, and devices in use.

#### Precautions to be taken by all participating persons

- Limit close contact with others by maintaining a distance of at least 6 feet, when possible (social distancing).
- Wear face coverings where social distancing measures are difficult to maintain, and at all times while actively examining damaged equipment and/or components with other persons present, when conducting in-person interviews, or participating in group meetings.
- Practice routine cleaning and disinfection of frequently touched surfaces, following the directions on the cleaning product's label. This may include cleaning tools, phones, cameras, etc. periodically before, during, and after use.
- Avoid sharing common items such as pens and tools when possible.
- Use gloves whenever touching surfaces contaminated or suspected to have been contaminated by human contact or body fluids.
- Wash hands regularly with soap and water for at least 20 seconds. If soap and water are not readily available, use an alcohol-based hand sanitizer containing at least 60% alcohol.
  - Key times to clean hands in general include:
    - Before, during, and after preparing food
    - Before eating food
    - After using the toilet
    - After blowing your nose, coughing, or sneezing
  - Additional times to clean hands on the job include:
    - Before and after work shifts
    - Before and after work breaks
    - After touching frequently touched surfaces
    - After putting on, touching, or removing cloth face coverings or other PPE
- Avoid touching eyes, nose, or mouth; appropriately cover face when coughing or sneezing; avoid greetings requiring personal contact (handshaking, etc.).

# Sample Checklist



## COVID-19 Risk Management Checklist

CSB Investigation Number:  
 Investigation Name:  
 Location of Investigation Activities (city & state):  
 Departure Date:  
 Return date:  
 Traveling Investigator(s)/Investigator-in-Charge:

<b>Answer the following questions, by placing an X in the appropriate box, or fill in the requested information in blank areas provided</b>	Yes	No
Traveling Investigator/Investigator-in-Charge has reviewed the risk factors for self and cohabitants and voluntarily agrees to participate in the investigative activity		
All CSB staff that are participating, are listed above, have reviewed and agree to apply this protocol		
Any contractor(s) used to assist in CSB investigation activities have been advised of this protocol and agree to follow it		
<b>Travel and Accommodations</b>		
Travel via private (e.g., POV) transportation		
Travel via public (e.g., air carrier, mass transit, ride sharing) transportation		
What is the method, routing and anticipated duration of travel? <i>For example: POV from home to airport, air carrier flight from X to X, rental car to incident site, duration 6 hours</i>		
For POV travel, provide name/address of alternate lodging if not staying overnight:		
<b>Personal Protective Equipment/Infection Control Materials</b>		
Do you have the following: cloth face coverings, gloves, hand sanitizer, and wipes?		
Do you have a sufficient quantity of the above for non-investigative portions of the trip (e.g., meal breaks, travel stops, etc.)?		
<b>Other Participants</b>		
List other participants that you expect to be involved in CSB investigation activities (e.g., company representatives, workers, family members, emergency responders)		
Have these participants reviewed the CSB COVID-19 protocol and agree to abide by it?		
Are these participants able to provide their own PPE and infection control materials?		
Has any participant exhibited symptoms of, been diagnosed with, or been in contact with someone diagnosed with COVID-19?		
Have you briefed other participants about any travel restrictions, infection control ordinances, accommodation or food availability restraints that may be present?		

**Upon completion, sign and date below, and submit for approval:**

Traveling Investigator/Investigator-in-Charge:

Approved by Executive Director, Office of Investigations and Recommendations

X \_\_\_\_\_

X \_\_\_\_\_

## **Reporting Confirmed or Suspected Cases of COVID-19**

According to CDC guidelines, a COVID-19 affected person is defined as someone who is:

- Confirmed positive through testing,
- Symptomatic and presumed positive (although not formally tested) after consultation with a board-certified medical professional, or
- Symptomatic, suspected, but not yet confirmed.

Anyone (i.e., employees, other federal agency or department employees, contractors, and visitors) meeting the definition of a COVID-19 affected person is directed to contact their supervisor to inform them of their status, and either stay home if they are teleworking, or depart the office immediately.

Any employee who appears to have symptoms upon arrival at work or who becomes sick during the day should immediately be separated from other employees and be sent home.

CSB personnel who have been in direct contact with a COVID-19 affected person must notify their supervisor and self-quarantine for the earlier of 14 calendar days or until a negative test result is received. These individuals will be allowed two weeks of situational telework or appropriate leave.

Supervisors must report potential new COVID-19 cases, positive, negative and pending tests to Human Resources and the DASHO as soon as possible.

Human Resources will be responsible for sending email notifications to all persons that had contact with the COVID-19 affected person in the workplace or as a result of CSB business outside the workplace to inform them that someone they may have had contact with is a COVID-19 affected person. This will be accomplished through individual emails and communication with the organizational unit occupying the space of the COVID-19 affected person. CSB will maintain confidentiality as required by the Rehabilitation Act, which requires all medical information to be kept confidential. However, this does not prevent a manager from reporting information about COVID-19 or symptoms to the appropriate employer officials, so they can take action based on the CDC guidance. All employer officials who are designated as needing to know the identity of a COVID-19 affected must maintain the confidentiality of this information.

The DASHO will be responsible for recording such cases on the OSHA log in accordance with OSHA guidelines.

If the COVID-19 affected person was in a CSB office within seven days of reporting symptoms to CSB, building management or GSA will also be notified and arrangements will be made for cleaning those office areas inhabited by the COVID-19 affected person.

## **CSB Self-Assessment for COVID-19**

Please perform the following self-assessment prior to departing for the office:

- 1) Do you feel unwell or have any of the following CDC-identified symptoms of COVID-19?
  - Temperature of 100.4 degrees F or higher (38.0 degrees C)
  - Chills
  - Cough or shortness of breath
  - Muscle pain
  - Headache
  - Sore throat
  - New loss of taste or smell
- 2) Within the last 14 calendar days, have you been in close contact (within 6 feet) of someone who has an active case of laboratory-confirmed COVID-19?
- 3) Within the last 14 calendar days, have you been in close contact (within 6 feet) of someone who is ill or demonstrates any of the above symptoms?
- 4) Within the last 14 calendar days, have you received instructions from a public health authority to self-observe, self-isolate, or self-quarantine?
- 5) Within the last 14 calendar days, have you traveled outside of the United States?

If you answered "yes" to any of the above questions, please stay home.

Notify your supervisor and expect to telework, if possible, or take leave. You should also stay in touch with your supervisor on your status.



# **NOTICE TO EMPLOYEES, CONTRACTORS AND VISITORS**

**THIS OFFICE IS OPEN AND OPERATIONAL  
HOWEVER:**

- **Have you traveled outside the country within the last 30 days?**
- **Have you been diagnosed with or exposed to any person diagnosed with COVID-19?**
- **Are you exhibiting symptoms of COVID-19, which include: fever, cough, difficulty breathing, or loss of taste or smell?**

**IF YOU ANSWERED “YES” TO ANY OF THE QUESTIONS ABOVE**



**PLEASE DO NOT ENTER THIS OFFICE**

**Employees and contractors:** Contact your manager/supervisor for instructions

**Visitors:** Contact the CSB individual who scheduled your appointment