



**National Society of
Professional Engineers®**

March 16, 2016

James Belke and Kathy Franklin
US Environmental Protection Agency
Office of Land and Emergency Management
1200 Pennsylvania Ave. NW. (Mail Code 5104A)
Washington, DC 20460

**RE: The National Society of Professional Engineers' Public Comment on
Docket ID No. EPA-HQ-OEM-2015-0725**

Dear Mr. Belke and Ms. Franklin:

On behalf of the more than 31,000 members of the National Society of Professional Engineers (NSPE), we commend the US Environmental Protection Agency for proposing improved chemical facility safety and security measures as part of the proposed changes to the Risk Management Program pursuant to Executive Order 13650 that require a licensed professional engineer (PE) to serve on the audit team. Specifically, on March 14, 2016, EPA published a proposed rule seeking comment titled: *Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act*. According to this proposed rule, EPA is proposing a new section 68.59 and section 68.80 (Third-Party Audits), which include the requirements for both third-party audits and third party auditors of chemical facilities.

As part of the proposed rule, EPA is proposing to require a PE as part of the audit team in an attempt to identify competent auditors that also have an ethical obligation to perform unbiased work. EPA seeks comment on 1) whether the proposal to require that a third-party auditor, or a member of the audit team, be a licensed PE is appropriate and 2) whether there are enough licensed PEs to conduct third-party audits for the universe of facilities that may become subject to these requirements. EPA seeks to learn if there are other qualifications that might be appropriate for RMP auditors in lieu of a PE?

NSPE submits the following response to both requests for comment.

- 1) NSPE strongly asserts that the auditing process is best performed by PEs since the facilities requiring auditing are designed, constructed and maintained by PEs. EPA's proposal to require a PE to be a third-party auditor or a member of the audit team is appropriate given a PE's unparalleled commitment to the public health, safety and welfare, as well as the demonstrated expertise and compliance with safety rules. To hold the license, a PE must demonstrate academic competence, technical competence, pass rigorous examinations, remain compliant with continuing education requirements, work under the supervision of a licensed PE for a minimum of four years, and consistently demonstrate the necessary expertise. A PE's foremost responsibility is to protect the public health, safety and welfare through competent and skilled engineering. Therefore, a PE should, at the minimum, serve on the audit team and, NSPE would assert, serve as the lead.



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- 2) EPA asks whether there are a sufficient number of licensed PEs to conduct third-party audits. NSPE answers unequivocally that the supply meets the demand. According to the National Council of Examiners for Engineering and Surveying (NCEES), as of 2014, 437,921 PE resident licenses were issued in the United States and its territories, many of whom can provide these services. It is also worth noting that many PEs are licensed in multiple states. Therefore, while there may be fewer PEs in one state, many companies and PEs perform services in multiple states.

The PE community looks forward to working with EPA to improve safety at facilities that use and distribute hazardous chemicals. NSPE recognizes that other professionals, for example, licensed professional geologists can meaningfully contribute to an audit team. However, given the aforementioned unique qualifications of the licensed PE (referenced in Answer 1) as well as the PE's foremost responsibility to protect the public health, safety and welfare, NSPE urges that these professionals not be used in lieu of a PE, but rather as part of a team that is led by a PE.

NSPE greatly appreciates the EPA's recognition of the professional engineer's important role in protecting the public health, safety, and welfare. Please contact Arielle Eiser, Senior Manager of Government Relations, at aeiser@nspe.org with any questions or clarifications.

Sincerely,

Timothy R. Austin, P.E., F.NSPE
President
National Society of Professional Engineers