

October 31, 2022  
The Honorable Michael Reagan  
EPA Office of the Administrator Environmental Protection Agency  
1200 Pennsylvania Avenue, NW 1101A  
Washington, DC 20460

**Re: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention (Docket Number EPA-HQ-OLEM-2022-0174)**

Dear Administrator Regan:

The 101 organizations listed below that are members or allies of the Coalition to Prevent Chemical Disasters and represent fenceline, community, worker, environmental justice, conservation, science, health and other constituencies affected by chemical disasters and EPA's Risk Management Program (RMP) regulation submit these comments on October 31, 2022 in response to Docket ID Number EPA-HQ-OLEM-2022-0174.

We appreciate EPA's efforts to issue the RMP Safer Communities by Chemical Accident Prevention proposed rule and Administrator Regan's [acknowledgment](#) that "protecting public health is central to EPA's mission, particularly as we adapt to the challenges of climate change, and the proposal announced today advances this effort, especially for those in vulnerable communities." We have been encouraged that EPA has held virtual listening sessions before drafting the rule and hearings during the proposed rule comment period, during which the organizations submitting this comment have been calling for EPA to finally fix critical weaknesses in the RMP rule. Such deficiencies have left workers and communities vulnerable to severe hazards and over 3,400 incidents since 2004 alone, many causing death, injury, toxic exposure and other harm.

EPA's proposal incorporates many essential provisions we have called for that are well-supported by the evidence and that are likely to save lives, prevent injury, and protect communities from shelter-in-place and evacuation. Yet, despite all of the comments received, it seems that on some centrally important issues EPA hasn't fully understood the concerns voiced by fenceline communities, workers, and the general public. We urge EPA to strengthen the proposal in key ways to fully satisfy the law and the agency's core commitments on environmental justice, worker safety, and climate change. EPA's final rule must deliver the basic and common-sense protections that communities, workers, and safety experts have been seeking for decades – and ensure these take effect expeditiously and can be fully implemented and enforced without further delay.

Specifically, our organizations urge EPA's final rule to include:

**1. Climate-related prevention and safety measures to protect communities and workers from the double threat of chemical disasters hurricanes, floods, and other "natech" incidents where there is a domino effect of natural and technological disasters.**

- It is critically important that EPA's proposal for the first time requires explicit consideration of natural or "external" hazards and power loss in hazard reviews and process hazard analyses for thousands of the most potentially dangerous chemical facilities, including refineries, chemical manufacturers, agricultural chemical facilities, water treatment systems, and many more - and requires reporting on implemented mitigation measures to avoid these hazards. There is a strong need for these requirements as shown by evidence that at least one-third of all RMP facilities are located in areas facing [high climate risks](#).

- We also call on EPA to go further to require the adoption of chemical release prevention practices that can withstand the risk of climate- and natural disaster-related hazards like requiring facilities to implement natural hazard mitigation and backup power systems for all RMP process equipment (not just monitors), and for the agency to take the steps needed to enforce this requirement.

**2. Stronger disaster prevention measures, e.g., identification and use of available, inherently safer methods that can eliminate or reduce catastrophic hazards altogether.**

- Requiring Safer Technologies Alternatives Analysis (STAA) and that facilities report on implemented STAA is one of the most vitally needed parts of the proposed rule and it is essential that EPA finalize this for people who live and go to school near and who work at or near the petroleum refineries and chemical manufacturers addressed in the proposal. However, EPA's proposed rule dangerously narrows the scope and benefit of the 2017 STAA provisions to cover just 5 percent of RMP facilities which denies this important protection to millions of community members, workers, and first-responders near other types of facilities who also need safer technologies, including hazard elimination, as the most important tool to prevent chemical disasters and avoid harm if an incident occurs. In order to prevent chemical disasters and death, injury, toxic exposure and other resulting harm, the agency should require STAA from all of the most potentially dangerous facilities, including at least all petroleum, chemical, and pulp/paper manufacturing processes, as well as water and wastewater treatment facilities, bleach producers, and fertilizer plants.
- In addition, we ask EPA to move beyond just the assessment and reporting of safer technologies to also require that facilities implement the identified alternatives when practicable, working in consultation with employees and communities to do so expeditiously.
- We are encouraged by EPA's proposed technology transfer provisions for sharing successful practices that companies are using to reduce and remove chemical hazards. However, as proposed, 95% of RMP facilities will not report any solutions data. EPA should require every RMP facility to routinely report the safer technologies/designs evaluated, implemented, or planned.

**3. Common-sense emergency response and incident management measures, e.g., back-up power, alerts in multiple languages (including advance community notification), fenceline air monitoring, leak detection and repair, emergency response exercises, and other best practices of safety leaders.**

- EPA should finalize its proposal to require community notification, and should make clear in the rule that this must be provided in all relevant languages necessary to sufficiently communicate to all members of the public affected by an RMP facility or potential chemical release, not just those located within six miles of a facility.
- EPA should also follow through to set a deadline and require reporting on emergency response field exercises – but should speed up compliance because 10 years is too long to wait for this essential emergency planning, especially in communities with multiple RMP facilities.
- EPA should require real-time air fenceline monitoring and leak detection at all facilities to provide for earlier notification and action to reduce harm to first responders and the public in the event of an incident, and ensure enforcement sufficient to deter removing air monitoring and control equipment from service.
- EPA should finalize the requirement under the proposed rule that ensures backup power for existing air monitors. This requirement should be extended to the additional fenceline monitoring that EPA should add under this rule. EPA should also require facilities to have enough back-up to safely run or shut down the entire facility in the event of power loss. This is particularly crucial in, but not limited to, facilities that are at elevated risk of weather disasters.

#### **4. Strengthen enforceability, corrective action, and accountability, including necessary information access in multiple languages.**

- EPA should assure Clean Air Act Title V implementation of the RMP occurs rather than treat this program as less important than other applicable clean air requirements, by revising 40 CFR § 68.215 so that permits for the approximately 1,800 major air pollution sources that are also RMP facilities have sufficient terms to assure compliance with the RMP rule, including adequate monitoring and reporting requirements.
- Recognizing that more effective public disclosure of this information would likely lead to a reduction in the number and severity of accidents, EPA's proposal has expressed intentions of making RMP data more accessible to the public. Rather than provide limited access to the specified information based on proximity to a facility, EPA should develop a public, multi-lingual online database where any member of the public can access non-restrictive RMP facility information and risk management plans. EPA should update this information monthly, not annually as proposed.

#### **5. Strengthen worker participation.**

- Support meaningful collaboration of employees and their representatives with management to design, implement, and evaluate *all* phases of the Risk Management Program, including hazard assessment, Safer Technology Alternatives Analysis, incident investigation, third party compliance audits, Stop Work Authority, anti-discrimination measures and emergency response.
- Ensure that employees and their representatives at *all* RMP facilities (regardless of Program level) have common rights and authorities. All workers should be able to protect safety.
- Adopt EPA's proposal for Stop Work Authority, a last line of defense to prevent disasters (and provide this authority to workers at all RMP sites).
- Require owners and operators to document and respond to reports by workers of all RMP-related safety issues, including "near-miss" events.
- Strengthen and clarify proposed anonymous reporting provisions.
- Require owners or operators to provide employees and their representatives with readily accessible information and effective training on RMP rule provisions.
- Require owners or operators to implement a written program to help ensure that there is no discrimination against any employee or employee representative for exercising authorities under this rule.

#### **6. Expand coverage of the RMP program to more facilities, processes and chemicals.**

- The proposed rule does not expand the program to cover any new chemicals, including the highly dangerous ammonium nitrate (AN), or lower the threshold for hazardous chemicals that would trigger coverage under the program. We call on EPA to commit to take prompt action to update the list of covered hazardous chemicals ASAP, no later than the end of 2023.
- EPA should also immediately redefine "stationary source" to ensure that the entire facility must comply with RMP requirements if any part of it is covered.

An improved final RMP rule is urgently needed to protect workers, communities and first responders by focusing on preventing chemical disasters through hazard reduction and elimination. EPA must follow the science and apply new information and lessons learned to prevent disasters and save lives. It is essential for EPA to issue a stronger new rule expeditiously that requires robust hazard reduction to prevent chemical disasters. Please fulfill this Administration's promises on environmental justice, worker safety, and climate change by strengthening this rule to end preventable chemical disasters, and assure the strongest possible protection for workers and communities becomes fully enforceable, once and for all, to ensure that a Bhopal-level disaster never occurs on U.S. soil.

Sincerely,

10 Votes  
 1000 Grandmothers for Future Generations  
 350 New Hampshire  
 5 Gyres Institute  
 AFGE Local 704  
 Air Alliance Houston  
 Alabama Interfaith Power & Light  
 Alaska Community Action on Toxics  
 Athens ReThink Plastics  
 Between the Waters  
 Beyond Plastics  
 Blue Ridge Environmental Defense League  
 Breathe Project  
 Buckeye Environmental Network  
 California Communities Against Toxics  
 California Kids IAQ  
 California Safe Schools  
 Carrizo/Comecrudo Tribal Nation of Texas  
 Cascadia Climate Action Now  
 Center for Environmental Health  
 Central California Environmental Justice Network  
 Cherokee Concerned Citizens  
 Citizens Coal Council  
 Citizens for Safe Water Around Badger  
 Clean Air Action Network of Glens Falls  
 Clean Air Council  
 Clean Air Muscatine  
 CleanAirNow\_EJ  
 Climate Action Campaign of the Humboldt  
 Unitarian Universalist Fellowship  
 Codepink San Francisco Bay Area  
 COMITE PRO UNO  
 Coming Clean  
 Comite Civico Del Valle, Inc.  
 Common Ground Rising  
 Concerned Health Professionals of Pennsylvania  
 Defend Our Health  
 Desert Citizens Against Pollution  
 Don't Waste Arizona  
 Downwinders at Risk  
 Earth Action, Inc.  
 Earth Ethics, Inc.  
 Earthjustice  
 Earthworks  
 East Yard Communities for Environmental Justice  
 Environmental Defense Fund  
 Environment Texas  
 Environmental Justice Health Alliance for  
 Chemical Policy Reform (EJHA)  
 Extinction Rebellion San Francisco Bay Area  
 Forest Keeper  
 Fresh Air Vallejo  
 FreshWater Accountability Project  
 Fridays for Future Charlotte  
 Friends of the Earth  
 GASP  
 Healthy Gulf  
 Honor the Earth  
 Hoosier Environmental Council  
 Hudson River Sloop Clearwater  
 Inland Ocean Coalition  
 Kentucky Environmental Foundation  
 Kentucky Interfaith Power and Light  
 League of Conservation Voters  
 Los Jardines Institute - New Mexico  
 Lunt Neighborhood Action Group, Inc.  
 Micah 6:8 Mission  
 Milwaukee Riverkeeper  
 Moms Clean Air Force  
 New Jersey Work Environment Council  
 New Mexico Environmental Law Center  
 North Country Earth Action  
 Northern California Recycling Association  
 Occupy Bergen County (New Jersey)  
 People Over Pipelines  
 Physicians for Social Responsibility - Los Angeles  
 Plastic Pollution Coalition  
 Progressive Coder Network  
 Project Outreach: The Frac Sand Sentinel  
 Protect All Children's Environment  
 Resource Renewal Institute  
 San Luis Valley Ecosystem Council  
 Save Our Shores  
 Sequoia ForestKeeper®  
 Southwestern Indiana Citizens for Quality of Life  
 Stand.earth  
 Surfrider Foundation  
 Terra Advocati  
 Texas Campaign for the Environment  
 The Descendants Project  
 The Enviro Show  
 The Last Beach Cleanup  
 The People's Justice Council  
 Torrance Refinery Action Alliance  
 Turtle Island Restoration Network  
 U.S. PIRG  
 U.S. PIRG Education Fund  
 Unite North Metro Denver  
 Union of Concerned Scientists  
 Valley Improvement Projects (VIP)

Valley Watch, Inc.  
Veterans for Peace  
Waterkeeper Alliance  
West Berkeley Alliance for Clean Air and Safe  
Jobs