

October 4, 2022

Mr. Barry Breen
Acting Assistant Administrator
Office of Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Mr. Carlton Waterhouse
Deputy Assistant Administrator
Office of Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Proposed Rule, Request for Comment Period Extension, Environmental Protection Agency; Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention; 87 Fed. Reg. 53556; Docket ID No. EPA-HQ-OLEM-2022-0174 (August 31, 2022)

Dear Mr. Breen and Mr. Waterhouse:

The undersigned organizations respectfully request that the U.S. Environmental Protection Agency (EPA) provide a minimum 60-day extension of the comment period on EPA's "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention" proposed rule. 87 Fed. Reg. 53,556 (August 31, 2022)

The safety and security of facilities, employees, and communities are paramount to the businesses that we collectively represent. Our members that are subject to the RMP program understand the importance of being good neighbors and work diligently on risk management planning that has led to a significant reduction in the number of RMP incidents. Affected facilities have continued to show improvements in their process safety performance over time. We ask the agency to provide additional time to review the proposed rule provisions and to prepare more informed recommendations and other comments. For the 2018 RMP proposed rulemaking, EPA provided almost 90 days of public comment opportunities from May 30, 2018 to August 23, 2018.¹ Additional time for this proposal would allow for better public input from affected entities and would improve regulatory outcomes.

There are many new elements in the proposal – including proposed changes to the prevention program, emergency response, information availability, and recordkeeping and reporting requirements – that necessitate more extensive research and discussions with affected facilities to better understand their unique situations and the likely impacts of the various provisions of the proposal. The rule would affect a broad set of sectors, many of which are represented by the signatories to this letter, and thousands of facilities that each have different operations and infrastructure, with significant differences between facilities even within the same company.

¹ 83 FR 24850 (May 30, 2018); 83 FR 34967 (July 24, 2018)

Aside from evaluating the changes that the proposed rule would make to current RMP requirements, review of the proposed rule requires consideration of proposed revisions that significantly overlap or otherwise interact with other agencies' regulations that require additional consideration and input from stakeholders. The EPA proposal interacts with the Pipeline and Hazardous Materials Safety Administration's Carriage by Rail regulations and the Occupational Safety and Health Administration's (OSHA's) Hazardous Materials Process Safety Management and emergency response regulations. For example, there is significant agency overlap with OSHA's program regarding process safety, hazards analysis, mechanical maintenance, and emergency response to name a few topics. In addition, OSHA is currently in the process of revising its Process Safety Management regulations and recently announced² a public hearing for October 12, 2022, to receive stakeholder input. Working through the overlapping requirements will require additional time to evaluate the proposed rule.

It is important for affected entities to understand interactions with other agency rules and to also be able to provide timely and meaningful comments on other EPA proposals and notices that require responses within a timeframe similar to that proposed for the RMP rule. EPA has set comment deadlines for more than 30 different notices across the agency within two weeks of the current RMP comment deadline. Notably, the Comprehensive Environmental Response, Compensation, and Liability Act Hazardous Substances: Designation of Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid proposed rule's comment deadline ends on November 7, 2022, one week after the RMP comment deadline. There is much overlap regarding the entities affected by both rules. Both of these rulemakings are noteworthy regulatory policies that, for many companies, would require the involvement of the same set of facility staff who are responsible for reviewing, analyzing, and preparing comments.

Given the complex nature of the policy, economic, and technical issues raised in the notice and interaction with other agency regulations, an extension would assist our organizations and other commenters in providing thoughtful, considered comments on the notice. Accordingly, we respectfully request that EPA extend the comment period by a minimum of 60 days.

Sincerely,

Agricultural Retailers Association
American Chemistry Council
American Coatings Association
American Forest and Paper Association
American Fuel and Petrochemical Manufacturers
American Petroleum Institute
American Short Line and Regional Railroad Association
The Chlorine Institute
Coalition for Responsible Waste Incineration
Corn Refiners Association
The Fertilizer Institute
Institute of Makers of Explosives

² 87 FR 57520 (September 20, 2022)

Louisiana Chemical Association
National Association of Chemical Distributors
National Association of Manufacturers
National Lime Association
National Mining Association
National Oilseed Processors Association
Plastics Industry Association
Society of Chemical Manufacturers and Affiliates
U.S. Chamber of Commerce