January 30, 2025

The Honorable Lee Zeldin
Administrator
U. S. Environmental Protection Agency

Dear Administrator Zeldin,

Congratulations on your recent confirmation to be Administrator of the EPA. We are writing to respectfully request a meeting to discuss the need for the Agency to immediately commence rulemaking to repair the 2024 Safer Communities by Chemical Accident Prevention: Risk Management Program Rule. The 2024 rule imposes misguided and illegal new requirements that fail to make facilities safer. Some of these requirements are already in effect, whereas others will go into effect in May 2027. Urgent action is needed to address these problems before industry must make costly investments in preparation for the looming compliance deadline.

Background

Clean Air Act section 112(r)(7) establishes EPA's Risk Management Program (RMP), which requires facilities that use extremely hazardous substances to develop risk management plans that identify the potential effects of chemical accidents, detail steps the facility is taking to prevent accidents, and spell out emergency response procedures should an accident occur. The first RMP regulation was originally promulgated in 1992 as a performance standard that fosters continuous safety improvements through regular inspections and analyses. EPA's own data show that the program has been extremely successful: RMP-reportable incidents have declined by more than 70 percent in all sectors, and by more than 75 percent in chemical manufacturing facilities (NAICS code 325).

Rules under RMP were mostly unchanged between 1992 and 2017. However, since January 2017, RMP requirements have been constantly in flux as successive administrations have fought over the rule, both in the regulatory docket and in the courts. This back-and-forth has resulted in uncertainty and enormous costs for regulated entities trying to maintain compliance.

To illustrate, the Obama EPA finalized a rulemaking in 2017 to add new requirements to the RMP rule, but those onerous rules have not been proven to reduce the number and severity of process safety incidents. The first Trump EPA quickly granted several petitions for reconsideration that resulted in a 2019 final rule rescinding nearly all the Obama EPA changes. In 2024, the Biden EPA published the RMP Safer Communities by Chemical Accident Prevention Rule (RMP SCCAP). RMP SCCAP, which reinstated the Obama EPA rulemaking and created additional requirements exceeding EPA's legal authority, increased risks to national security, and significantly increased costs without improving facility safety.

It is imperative that EPA take immediate action to fix critical areas of this rule. Assuming a new rulemaking could take as long as 24 months, our respective members must tackle the daunting task of complying with the provisions of the new rule now in effect, while simultaneously beginning to make investments to comply with the unreasonable and unnecessary requirements that take

effect May 10, 2027. Absent swift and targeted action by EPA, our members will be forced to spend millions of dollars to produce mountains of paper that will not only fail to make American facilities safer, but will also make them less secure and more vulnerable to terrorists and hostile foreign regimes.

RMP SCCAP is not the only major concern we wish to bring to your attention. In 2024, EPA also made a "policy decision" separate and apart from the SCCAP rulemaking, to unveil a new "Risk Management Public Data Tool" on EPA's website. This tool provides the general public with access to thousands of documents detailing chemical inventories and safety procedures for chemical facilities. Disclosure of this sensitive security information to anyone with an internet connection creates additional security risks at RMP facilities. More than 90% of the chemicals covered by the RMP rule are also on the Department of Homeland Security's Chemicals of Interest list due to their potential for misuse by bad actors. Making this information publicly accessible represents an unacceptable risk to U.S. manufacturing, distribution, and storage facilities.

Our request

To end the regulatory whiplash surrounding the RMP rules that has existed since 2017, we would like to work with EPA to build a durable solution that addresses facility safety, without burdening our members with costly, unnecessary requirements that are not proven to enhance safety.

Specifically, we ask that EPA:

1. Immediately shut down and remove the Risk Management Public Data Tool from EPA's website.
2. Meet with us to discuss how best to initiate a rulemaking to correct the following provisions of the Biden EPA rule:
    a. Safer Technologies and Alternatives Assessment provisions, including the practicability assessment requirements
    b. Information Availability of sensitive chemical hazard information
    c. Third-Party Audit Requirements
    d. Process safety information requirements
    e. Declined recommendations documentation and disclosure requirements

The facilities affected by this program are vital components of the U.S. economy, supporting millions of jobs, driving innovation, and maintaining our global competitiveness. We urge EPA to prioritize this RMP rulemaking as part of your agenda.

We welcome the opportunity to meet with you to discuss this matter further and explore how we can collaborate to advance this important initiative. Thank you for considering our request. We look forward to working with you.

Sincerely,

Agricultural Retailers Association
Alliance for Chemical Distribution
American Chemistry Council

American Coatings Association
American Coke and Coal Chemicals Institute
American Fuel & Petrochemical Manufacturers
American Petroleum Institute
Corn Refiners Association
International Liquid Terminals Association
International Warehouse Logistics Association
National Mining Association
National Oilseed Processors Association
Society of Chemical Manufacturers & Affiliates
The Fertilizer Institute
The Sulphur Institute
U.S. Chamber of Commerce