



Congress of the United States
House of Representatives
Washington, DC 20515-3605

December 21, 2023

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Administrator Regan,

We write to request that the US Environmental Protection Agency (EPA or the Agency) repropose its Safer Communities by Chemical Accident Prevention (SCCAP) rule, which would dramatically reshape the Agency's Risk Management Program (RMP) regulation. The Agency's SCCAP final rule, which is currently under review in the White House Office of Management and Budget (OMB), could have unintended negative impacts on domestic manufacturing, our national security, and jeopardize American innovation.

Safety in facilities that utilize hazardous chemicals is a top priority, and our nation's critical industries have shown an impressive track record in incident prevention and process safety. Since the program began in 1996, RMP reportable incidents have decreased by over 80 percent, proving that existing regulations and voluntary industry efforts are effective in managing risk. These improvements can be attributed to existing performance-based regulatory frameworks, as well as industry-led initiatives to continually improve operating practices and maintain a strong safety culture.¹ Unfortunately, the EPA's proposed revisions are unlikely to yield improvements.

In the proposed rule, EPA estimated the annual cost of the rule would be \$75 million, but the Agency now estimates the annual cost of the rule to exceed \$257 million. This large cost difference indicates the scope of new regulatory requirements has been greatly expanded. It is critical that EPA solicit stakeholder input on the changes that have resulted in a significantly higher cost to produce a more technologically feasible and cost-effective policy.

Additionally, we are concerned that EPA's proposed changes would create significant national security vulnerabilities for American consumers and manufacturers. Currently, regulated industries engage regularly with local, state, and federal stakeholders to communicate emergency response procedures and risk assessments. However, the proposed rule goes far beyond reasonable public disclosures by mandating

¹ Examples of industry-led initiatives include the American Fuel and Petrochemical/American Petroleum Institute (AFPM/API) Advancing Process Safety Program and American Chemistry Council's (ACC) Responsible Care® Program

that facilities share sensitive security information with anyone who works, lives, or even travels in a six-mile radius of that facility.

This policy change would result in requiring companies to expose security vulnerabilities and information on hazardous substances that could be used by malicious actors and undermine incident response. When the EPA proposed similar disclosure requirements in 2017, several agencies highlighted national security concerns.² There is no reasonable public benefit to the increased disclosure, and no data to support that expanding access to specific chemical hazard information would result in improved performance for regulated facilities. We urge the EPA to remove these concerning provisions in forthcoming proposals.

It is imperative that RMP regulations are performance-based to support innovation to successfully reduce risks, improve efficiencies, and ensure safe operations. Any changes should be focused on delivering measurable and significant impacts. We fear that the proposal in its current form may have opposite, negative impacts. New, unnecessary, and costly requirements will only worsen regulatory program redundancy and waste. RMP-regulated facilities are already subject to vigorous regulations and reporting requirements from multiple government agencies.

For example, these industries have a long-standing relationship with OSHA, as Congress directed OSHA, the agency best equipped to handle these issues, to take lead on this subject. Congress has never expanded EPA's authority and role in establishing process safety regulations. These program changes proposed by EPA could do more harm than good, upending the alignment between OSHA's and EPA's area of focus and sowing regulatory chaos.

In addition to working with federal partners to consistently reduce risk, companies collaborate with each other to share best practices and procedures to improve industry-wide safety performances. The overly prescriptive nature of EPA's proposed changes could force facilities to redirect time, resources, and money to accommodate regulatory requirements that may not reduce risk or even be up to date with new safety techniques and technology.

Lastly, finalizing SCCAP as currently drafted would make it more difficult for US companies to innovate and remain competitive. For example, the regulation singles out the refining industry's use of hydrofluoric acid (HF), a catalyst which is critical for producing lower emissions fuels. If the proposed regulations are implemented, facilities using HF may not be financially capable of accommodating these requirements, ultimately impacting environmental goals while doing nothing to achieve the rule's intended goal. This could place gasoline capacity at risk and lead to higher prices for American families relying on these innovative refinery products.

We are proud of the work RMP-regulated industries have done to implement measures that reduce the number and impact of incidents, improve safety, and strengthen security. In fact, the number of all RMP-reportable accidents has decreased by 80 percent since 1996.³ Performance-based programs have enabled dramatic improvements in workplace safety, and EPA's current rules are working as intended. We are concerned that proposed changes could undermine that progress, while jeopardizing our national security

² See EO 13866 Interagency Review Risk Management Modernization RIN 2050-AG82 NPRM Proposal Rule 20160223 (Redline) 20160223 REV, Docket# EPA-HQ-OEM-2015-0725-0004, at 150 (Mar. 14, 2016).

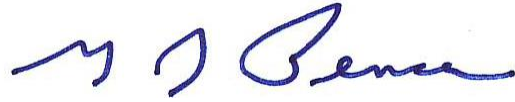
³ EPA-HQ-OLEM-2022-0174-0065, All_accidents_2004_2020.

and robust domestic manufacturing industry. We strongly urge EPA to repropose this rule and address these concerns prior to finalizing any further changes to the RMP program.

Sincerely,



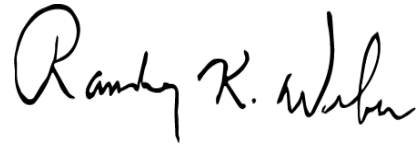
August Pfluger
Member of Congress



Greg Pence
Member of Congress



Michael Burgess, M.D.
Member of Congress



Randy Weber
Member of Congress



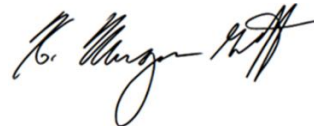
Rick Allen
Member of Congress



Troy Balderson
Member of Congress



Mariannette Miller-Meeks, M.D.
Member of Congress



H. Morgan Griffith
Member of Congress



Dan Crenshaw
Member of Congress



Richard Hudson
Member of Congress

A handwritten signature in blue ink that reads "Russ Fulcher". The signature is fluid and cursive, with the first name "Russ" and last name "Fulcher" clearly distinguishable.

Russ Fulcher
Member of Congress

A handwritten signature in black ink that reads "Mike Carey". The signature is stylized and cursive, with the first name "Mike" and last name "Carey" clearly distinguishable.

Mike Carey
Member of Congress

A handwritten signature in black ink that reads "Larry Bucshon". The signature is cursive and somewhat stylized, with the first name "Larry" and last name "Bucshon" clearly distinguishable.

Larry Bucshon, M.D.
Member of Congress

CC: Shalanda D. Young, Director of the United States Office of Management and Budget