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 acknowledgement 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.

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 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