



Statement of the U.S. Chamber of Commerce

FOR: STATEMENT FOR THE RECORD ON THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL ON THE "ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT; FURTHER DELAY OF EFFECTIVE DATE"

TO: U.S. ENVIRONMENTAL PROTECTION AGENCY

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The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Statement Prepared for the
U.S. Environmental Protection Agency Public Hearing
Washington, D.C.
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The U.S. Environmental Protection Agency's Proposal on the "Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Further Delay of Effective Date"

Mary K. Martin
U.S. Chamber of Commerce

Good afternoon. My name is Mary Martin and I am here on behalf of the U.S. Chamber of Commerce. The Chamber is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is supportive of the U.S. Environmental Protection Agency's ("EPA") proposal to delay the effective date of the final Risk Management Program rule ("RMP rule"). The EPA is proposing to postpone the effective date of the RMP rule until February 9, 2019. According to the agency, this additional time would enable it to "consider petitions for reconsideration" of the rule and "take further regulatory action, which could include proposing and finalizing a rule to revise" the RMP rule. The Chamber maintains that this proposal is a prudent course of action, particularly given the deficiencies in the rulemaking process for the RMP rule, which was finalized on January 13, 2017.

The safety and security of facilities, employees, and communities are extremely important to the Chamber and its members. The Chamber's members conduct risk management planning, invest in security, and believe that supporting an ongoing partnership between businesses and federal, state, and local officials is critical to ensuring facility safety

today and in the future. While there may be support for the overarching goals of the Risk Management Program under the Clean Air Act, the Chamber has several significant concerns with the RMP rule that the EPA, under the previous administration, finalized earlier this year.

Those concerns, as outlined in comments filed by the Chamber and other trade associations in May 2016, include the following:

- First, the Chamber expressed concerns with the proposed revisions to the RMP program because they overlapped and conflicted with other federal programs designed to promote safety and security. In other words, EPA's RMP rule will be duplicative and add regulatory burdens—and likely inconsistencies—with no additional benefits. In particular, EPA's expansion of the definition of "catastrophic release" to include releases that only produce on-site impacts conflicts with the Occupational Safety and Health Administration's ("OSHA's") statutory authority over such releases.
- Second, the numerous inadequacies of a prescriptive "inherently safer technology" ("IST") analysis have been well documented in response to similar proposals from other federal agencies and are not any more suitable under the RMP program.
- Third, the disclosure requirements under the RMP rule raise serious concerns related to sensitive business and security data. Indeed, the level of detail of disclosure required by the RMP rule may compromise the security of the impacted facilities, emergency responders, and the surrounding communities.

- Fourth, the RMP rule’s requirement of third-party audits is infeasible in certain circumstances due to the high costs and the lack of availability of third-party auditors, which have not been shown to provide any improvements in safety in comparison to self-audits. The third-party audits are likely to introduce unnecessary complexity, burden, and hardship that are not warranted.
- Fifth, as the EPA previously acknowledged, the monetized costs of the RMP rule are likely to exceed the monetized benefits.¹ An appropriate cost-benefit analysis would further underscore how costly the rule would be in comparison to its benefits.
- Sixth, EPA ignored its obligations under the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”) by submitting the proposed rule to the Office of Management and Budget (“OMB”) before the Small Business Advocacy Review (“SBAR”) panel completed its report. Failing to wait until the completion of the SBAR panel report raises serious questions about EPA’s commitment to the public comment process that is central to EPA’s rulemaking authority under the Clean Air Act.

Each of these concerns is expanded upon in the Chamber’s written comments, which will be included with this statement and filed as part of the record for the proposal at issue today – delaying the effective date of the RMP rule.

The rulemaking process for the RMP rule was rushed, lacking in meaningful consideration of stakeholder input, and contrary to multiple pillars of the Administrative

¹ EPA, Regulatory Impact Analysis 91 (February 24, 2016) (“RIA”).

Procedure Act. Consequently, the Chamber welcomes this proposal to delay the effective date of the RMP rule so that the EPA has time to weigh petitions for reconsideration of the rule and, if justified, revise the rule and/or take further action on the rule.

Thank you for your time and consideration today.