

Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

January 26, 2022

Dear Administrator Regan,

As elected officials representing many communities across the U.S., we are writing to urge the Environmental Protection Agency (EPA) to adopt a strengthened Risk Management Plan (RMP) Program, or chemical disaster prevention rule, to protect communities across the United States.

More than 177 million Americans (many of them our constituents) live near the over 12,000 high-risk facilities across the country that use or store highly dangerous chemicals - all of which are vulnerable to disaster if the appropriate prevention measures are not taken.¹ Over 1 million workers staff these facilities,² and over 24 million children and adults attend or work at schools in these danger zones.³ At least a third of these RMP facilities (almost 4,000) are exposed to risks of wildfire, storm surge, flooding, and sea level rise, which are increasing dramatically as the climate changes.⁴ Without the full protection of an improved RMP with strong prevention requirements, these facilities present a constant risk of deadly chemical releases.

Chemical releases, fires, and explosions occur across the United States almost constantly. In just ten years, there were over 1,500 reported chemical releases or explosions at RMP facilities nationwide. These caused over \$2 billion in property damages; evacuation or “shelter in place” of half a million people; over 17,000 reported

¹ Environmental Justice Health Alliance for Chemical Policy Reform, Coming Clean, and Campaign for Healthier Solutions. (2018, September). *Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities*. <https://ej4all.org/life-at-the-fenceline>

² The Houston Chronicle, The Right-To-Know Network. (2019, March 14). *U.S. Environmental Protection Agency Risk Management Plan Database, Full-time employees as reported to EPA by RMP facilities*. <https://rtk.rjifuture.org/rmp/>

³ Environmental Justice Health Alliance for Chemical Policy Reform, Coming Clean, and Campaign for Healthier Solutions. (2018, September). *Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities*. <https://ej4all.org/life-at-the-fenceline>

⁴ Center for Progressive Reform, Earthjustice, and the Union of Concerned Scientists. (2021, July). *Preventing “Double Disasters”*. <https://www.ucsus.org/sites/default/files/2021-07/preventing-double-disasters%20FINAL.pdf>

injuries; and 59 reported deaths.⁵ With lax reporting requirements and no systematic health surveillance in place, these numbers likely underestimate the problem. People who live in the potential disaster zones around many facilities are disproportionately people of color and low income, and many communities host multiple - sometimes dozens - of hazardous facilities, contributing to cumulative impacts.⁶

Extreme weather events often result in double disasters for many communities from the weather itself, and from chemical releases when facilities aren't required to prepare or plan. In the best of cases, it results in near-misses. These extreme weather events are increasing due to climate change, yet the current RMP program fails to account for this reality or require facilities to plan for climate-related events. During last year's Hurricane Ida, for example, at least nine RMP facilities in Louisiana reported chemical releases in the first week after the event. The full impact of these events have not been determined, since at least 13 of Louisiana's Department of Environmental Quality ambient air monitors were unable to collect data as a result of power loss from the hurricane.⁷ As Ida travelled up the coast, it was only by chance, not prevention planning,⁸ that flooding produced by "the most severe storms to hit Wilmington [Delaware] in recent memory"⁹ affected only nearby communities and not the neighboring RMP facilities.

Chemical disasters not only cause injuries, deaths, long-term health impacts, and property damage, but also have broader social, economic, and business consequences for our communities. For example, the 2014 chemical release that contaminated West Virginia's largest drinking water supply caused a four-day, \$61 million economic loss, and affected nearly 75,000 workers each day, many of whom were low-wage workers who lost their wages when they were unable to work due to business closures. These

⁵ U.S. Environmental Protection Agency. (2016, February 24). *Regulatory Impact Analysis: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7)*. <https://www.regulations.gov/document/EPA-HQ-OEM-2015-0725-0037>

⁶ Environmental Justice Health Alliance for Chemical Policy Reform, Coming Clean, and Center for Effective Government. (2014, May). *Who's in Danger? Race, Poverty and Chemical Disasters*. <https://ej4all.org/about/resources>

⁷ The Center for Progressive Reform. (2021, September 9). *Double Disaster in Ida's Wake: Will EPA Finally Ensure Industrial Facilities Prepare for Climate Change?* <https://progressivereform.org/cpr-blog/double-disaster-idas-wake-will-epa-finally-ensure-industrial-facilities-prepare-climate-change/>

⁸ The Houston Chronicle: The Right-To-Know Network. (2019, March 14). *U.S. Environmental Protection Agency Risk Management Plan Database, Wilmington, Delaware*. <https://rtk.rjifuture.org/rmp/>

⁹ WITN Channel 22. (2021, September 2). *Mayor Purzycki Issues Executive Order Declaring State of Emergency in Wilmington*. <https://www.witn22.org/2021/09/02/mayor-purzycki-issues-executive-order-declaring-state-of-emergency-in-wilmington/>

losses did not include the costs of cleaning up the leak, emergency expenditures, or analysis beyond the initial four-day period.¹⁰

Likewise, avoiding an incident could save some companies upwards of \$220 million per incident in costs related to emergency response, equipment repairs, fines, profit loss, and workers' compensation. This estimate doesn't include the social and economic costs of worker injuries, fatalities, and other community-wide damage.¹¹ In addition to being injured or killed first in chemical disasters, workers are often disproportionately impacted by the economic impacts of preventable incidents. When the Philadelphia Energy Solutions Refinery closed after a devastating series of explosions in 2019, over 1,000 workers were laid off with no severance and almost no notice.¹²

Our states, cities, and constituents cannot wait any longer for companies to voluntarily decide to remove these hazards at their convenience. Chemical incidents can be prevented by incorporating common-sense policies into a strengthened RMP. Many safer chemicals and processes already exist, and more can be developed. What is missing, but urgently needed, are national requirements for transition to safer alternatives whenever possible, and other proven measures that can help prevent disasters.

As you consider what should go into a new RMP rule, we urge you to prioritize hazard reduction, meaningful worker participation, and environmental justice. More specifically, we call on the EPA to ensure that the new rule will:

1. **Prevent disasters by requiring hazard reduction.** Many of the chemical facility incidents from the past could have been prevented. Moving forward, the EPA can use existing policy approaches as models, such as the California refinery Process Safety Management rule, the Contra Costa County (CA) Industrial Safety Ordinance, and the New Jersey Safer Technology rule. Root cause analyses of significant incidents, independent third-party safety audits, and other best practice prevention measures should be mandatory.

¹⁰ Marshall University Center for Business and Economic Research. (2014, February 4.) *CBER Calculates Impact from Chemical Spill into Elk River*.

<http://www.cbermu.org/cber-calculates-impact-chemical-spill-elk-river/>

¹¹ Gonzales, D., Gulden, T. R., Strong, A., & Hoyle, W. (2016, March 16). *Cost-Benefit Analysis of Proposed California Oil and Gas Regulations*. RAND Corporation.

http://www.rand.org/pubs/research_reports/RR1421.html

¹²<https://www.inquirer.com/business/energy/philadelphia-refinery-fire-workers-sue-pes-closure-job-layoffs-20190701.html>

2. **Better prepare chemical facilities for potential climate impacts.** This can be done by: expanding RMP coverage to more facilities in areas prone to natural disasters; building prompt implementation and compliance deadlines into new rules; requiring safer shutdown and startup procedures; collecting and publicly sharing air emissions data in real time; and requiring that communities receive timely information about natural disaster response plans in ways that are clearly communicated to those at risk.
3. **Include common-sense emergency response and incident management measures.** Back-up power, alerts in multiple languages (including advance community notification), real-time fence-line air monitoring, leak detection and repair, emergency response exercises, and similar best practices should not be optional.
4. **Increase enforceability, corrective action, and accountability.** Clean Air Act Title V permits under 40 CFR § 68.215 must have sufficient terms to assure RMP compliance, and require meaningful worker involvement, participation, and stop work authority (including an anonymous safety and near-miss hotline). Clear, expeditious compliance deadlines are essential.
5. **Expand coverage of the RMP program.** The current scope of the RMP program is woefully inadequate. More facilities, processes and chemicals (including ammonium nitrate and other reactives) must be covered. One process or part of a facility should trigger coverage for the whole facility.
6. **Account for cumulative health impacts from multiple polluting facilities and underlying vulnerabilities.** RMP facilities are frequently located in close proximity to each other, as well as additional facilities that continuously release multiple pollutants. Oftentimes, communities neighboring these facilities - disproportionately made up of people of color and low income people - are faced with a host of other social and environmental conditions that increase their susceptibility to health threats. Human bodies don't experience one health threat at a time, they experience them cumulatively. When chemical disasters occur, the health hazards can be even more extreme. EPA must recognize that more layers of prevention are needed to protect communities where these cumulative hazards exist.

We and our constituents are unwilling to continue living with the constant threat of chemical disasters that could destroy our neighborhoods, businesses, and communities, when safer chemicals and technologies exist. Injuries, death and disease are not acceptable risks, and our communities are not sacrifice zones. Our lives and health should be the first - not the last - consideration when developing the new RMP rule.

Your swift action is needed to assist us in our role as state and local leaders to protect our communities from additional chemical disasters. Thank you for your attention.

Sincerely,

1. Representative Judy Amabile, Boulder, CO; Colorado House District 13
2. Representative Poppy Arford, Brunswick, ME; Maine House District 49
3. Councilman Jecorey Arthur, Louisville, KY; Louisville Metro Council District 4
4. Senator Donna Bailey, Saco, ME; Maine Senate District 31
5. Senator Joseph M. Baldacci, Bangor, ME; Maine Senate District 9
6. Delegate Jim Barach, Charleston, WV; West Virginia House District 36
7. Representative Seth Berry, Bowdoinham, ME; Maine House District 55
8. Senator Cathy Breen, Falmouth, ME; Maine Senate District 25
9. Representative Heidi E. Brooks, Lewiston, ME; Maine House District 61
10. Representative Mark Bryant, Windham, ME; Maine House District 24
11. Representative Donna Bullock, Philadelphia, PA; Pennsylvania House District 195
12. Councilmember Maria D. Cabrera, Wilmington, DE; Wilmington City Council
At-Large
13. Senator Amanda M. Cappelletti, Norristown, PA; Pennsylvania Senate District 17
14. Senator Maria Collett, Lower Gwynedd, PA; Pennsylvania Senate District 12
15. Senator Carolyn T. Comitta, West Chester, PA; Pennsylvania Senate District 19
16. Representative Franklin D. Cooke Jr., Wilmington, DE; Delaware House District 16
17. Representative Mary Jo Daley, Narberth, PA; Pennsylvania House District 148
18. Assistant Senate Majority Leader Matthea Daughtry, Brunswick, ME; Maine Senate
District 24
19. Senator Michael Dembrow, Portland, OR; Oregon Senate District 23
20. Representative Jan Dodge, Belfast, ME; Maine House District 97
21. Councilwoman Keisha C. Dorsey, MPH, Louisville, KY; Louisville Metro Council
22. Representative Vicki Doudera, Camden, ME; Maine House District 94
23. Delegate John Doyle, Shepherdstown, WV; West Virginia House District 67
24. Representative Mary Ann Dunwell, Helena, MT; Montana House District 84
25. Councilmember Dee Durham, Wilmington, DE; New Castle County Council District 2
26. Assemblymember Steve Englebright, Setauket, NY; New York Assembly District 4
27. Representative Jeffrey Evangelos, Friendship, ME; Maine House District 91
28. Assemblymember Patricia A. Fahy, Albany, NY; New York Assembly District 109
29. Speaker Ryan M. Fecteau, Biddeford, ME; Maine House District 11
30. Councilmember Bregetta Fields, Wilmington, DE; Wilmington City Council District 5
31. Delegate Barbara Evans Fleischauer, Morgantown, WV; West Virginia House District

32. Representative Tom France, Missoula, MT; Montana House District 94
33. Representative Lori K. Gramlich, Old Orchard Beach, ME; Maine House District 13
34. Councilwoman Jessica Green, Louisville, KY; Louisville Metro Council District 1
35. Representative Nancy Guenst, Hatboro, PA; Pennsylvania House District 152
36. Councilmember Helen Gym, Philadelphia, PA; Philadelphia City Council
37. Delegate Evan Hansen, Morgantown, WV; West Virginia House District 51
38. Senator Brad Hoylman, New York, NY; New York Senate District 27
39. Representative Patricia Hymanson, York, ME; Maine House District 4
40. Representative Sara G. Innamorato, Pittsburgh, PA; Pennsylvania House District 21
41. Assistant Minority Whip Jani Iwamoto, Salt Lake, UT; Utah Senate District 4
42. Representative Larry Lambert, Claymont, DE; Delaware House District 7
43. Representative Mary Lightbody, Westerville, OH; Ohio House District 19
44. Representative Nicole Lowen, Kailua Kona, HI; Hawaii House District 6
45. Representative Kristi Mathieson, Kittery, ME; Maine House District 1
46. Representative Jay McCreight, Harpswell, ME; Maine House District 51
47. Assemblymember John T. McDonald III, Cohoes, NY; New York Assembly District 108
48. Senator Mary McNally, Billings, MT; Montana Senate District 24
49. Senator Dave Miramant, Camden, ME; Maine Senate District 12
50. Senator Michael Moore, Millbury, MA; Massachusetts Senate Second Worcester District
51. Councilmember Brianne K. Nadeau, Washington, DC; District of Columbia Council Ward 1
52. Senator Gerald A. Neal, Louisville, KY; Kentucky Senate District 33
53. Senator Shannon O'Brien, Missoula, MT; Montana Senate District 46
54. Representative Jennifer O'Mara, Springfield, PA; Pennsylvania House District 165
55. Representative Andrea Olsen, Missoula, MT; Montana House District 100
56. Representative Danielle Friel Otten, Exton, PA; Pennsylvania House District 155
57. Senator Sabina Flores Perez, Hagatña, GU; Guam Legislature
58. Representative Bill Pluecker, Warren, ME; Maine House District 95
59. Delegate Mike Pushkin, Charleston, WV; West Virginia House District 37
60. Representative Chris Rabb, Philadelphia, PA; Pennsylvania House District 200
61. Representative Amy Roeder, Bangor, ME; Maine House District 125
62. Representative Suzanne Salisbury, Westbrook, ME; Maine House District 35
63. Representative Benjamin Sanchez, Abington, PA; Pennsylvania House District 153
64. Senator Steve Santarsiero, Bucks County, PA; Pennsylvania Senate District 10
65. Representative Michael Schlossberg, Allentown, PA; Pennsylvania House District 132
66. Representative Attica Scott, Louisville, KY; Kentucky House District 41

- 67. Assemblymember Rebecca A. Seawright, New York, NY; New York Assembly District 76
- 68. Senator James Skoufis, Newburgh, NY; New York Senate District 39
- 69. Representative Denise Tepler, Topsham, ME; Maine House District 54
- 70. Delegate Danielle Walker, Morgantown, WV; West Virginia House District 51
- 71. Senator David Watters, Dover, NH; New Hampshire Senate District 4
- 72. Representative Tina Wildberger, Kihei, HI; Hawaii House District 11
- 73. Delegate Kayla Young, Charleston, WV; West Virginia House District 35