

April 21, 2022

Michael Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington DC, 20460

Dear Administrator Regan:

We are very encouraged to hear that the Environmental Protection Agency (EPA) has committed to updating its Risk Management Program (RMP) rules and expects to issue a proposed rule by September 2022. We believe the requirements of U.S. national security make it more urgent than ever that EPA issue new rules that truly prevent harmful chemical facility releases.

By enhancing the January 13, 2017, RMP rule the EPA can simultaneously enhance national security and the protection of workers and communities now in harm's way. An accident, natural disaster, or deliberate criminal attack could trigger a chemical release that could kill or injure thousands of people and cause billions of dollars of economic damage.

A May 2020 Government Accountability Office report warned that, *"Thousands of high-risk chemical facilities may be subject to the risk posed by cyber threat adversaries—terrorists, criminals, or nations. These adversaries could potentially manipulate facilities' information and control systems to release or steal hazardous chemicals and inflict mass casualties to surrounding populations."*

In 2012 former Secretary of Defense Leon Panetta warned of a *"cyber Pearl Harbor,"* including critical infrastructure such as chemical facilities. According to a 2014 Congressional Research Service analysis the RMP universe, 466 RMP facilities each have 100,000 or more people in "vulnerability zones" surrounding them.

During the Syrian civil war more than 300 chemical attacks killed and sickened from sarin and chlorine gas, according to the Global Public Policy Institute. Since Russia's invasion of Ukraine threats of attacks on chemical facilities have been a concern from day one.

In 2013 the West, Texas, ammonium nitrate explosion killed 15 Americans and injured 160 more. As a result, President Obama issued executive order (#13650) directing the EPA, OSHA and DHS to issue new standards of safety and security for U.S. chemical facilities, resulting in the 2017 RMP rules.

Following the attacks of September 11, 2001, the EPA was designated the lead agency for reducing vulnerability to deliberate attacks on the nation's chemical facilities. Prior to the official designation as lead agency, then-Administrator Whitman directed EPA to develop a strategy based on Clean Air Act authorities to reduce chemical facility hazards. Unfortunately, the EPA plan, which was supported by Tom Ridge, then director of the White House Office of Homeland Security, was scuttled in 2002 by the Bush White House Office of Management and Budget.

Today the FBI and other agencies have added domestic terrorism to their priorities. The ongoing threats of cyber attacks by foreign and domestic actors as well as physical attacks have for too long ignored prevention measures that can render a target no longer attractive by eliminating the magnitude of consequences of a chemical release, regardless of its cause.

Even without the threat of sabotage, the inherent hazards to workers and communities posed by RMP facilities has not significantly diminished. The EPA cited 1,500 chemical releases causing 17,000 injuries and 58 deaths between 2004 and 2013. And there have been hundreds more incidents since then.

The 1990 Clean Air Act authorities to prevent future chemical catastrophes were a response to the horrific 1984 disaster at Bhopal, India, which killed 20,000 people. The Bhopal plant was owned by a U.S. company, Union Carbide, which had an identical plant in the U.S. Dupont also had a similar plant but converted to safer processes within months following the Bhopal disaster.

Like terrorism, natural disasters represent an unpredictable and existential hazard. In 2017 the U.S. received another wake call in the form of Hurricane Harvey. The storm flooded an organic peroxides plant operated by Arkema in Crosby, Texas. The resulting fire triggered a loss of power and a dangerous plume of smoke, sending 15 first responders to the hospital and requiring the evacuation by area residents. Millions of Americans, particularly low-income, underserved communities of color, live closest to RMP chemical facilities.

Today the EPA should build on the 2017 RMP rule by:

— Requiring all RMP facilities to assess safer alternatives to existing chemical processes, alternatives that will eliminate or dramatically reduce the consequences of a catastrophic release of an acutely toxic substance. The 2017 rule exempted 78% of the 12,500 Risk Management Plan chemical facilities from requirements to conduct a Safer Technology and Alternatives Analysis (STAA). The exempted facilities include, water treatment and chlorine bleach plants, many of which put major cities at risk of a catastrophic release of chlorine gas.

— Requiring all these RMP facilities to send their STAAs to the EPA and readily share relevant information with nearby communities and interested parties, such as emergency responders, facility employees and contractors, and safety researchers.

— Requiring facilities completing STAAs to implement safer alternatives wherever feasible, especially if they can eliminate catastrophic hazards the way hundreds of facilities have including water treatment plants, chlorine bleach plants (all Clorox facilities) and refineries using hydrogen fluoride (Honeywell process adopted by Chevron in Salt Lake City refinery). This is the only foolproof way to prevent catastrophic releases by any cause. Unfortunately, of the three options the EPA considered in the 2017 rule, the Agency decided NOT to conduct a cost estimate for a requirement to implement safer alternatives.

— Establishing a publicly accessible clearinghouse of safer available alternatives to encourage the adoption of safer alternatives by more facilities. And provide first responders, employees and communities easier online access to facility hazard information. They are the eyes and ears of safety and security.

-- Factor natural disasters into RMP rules and permits to prevent the double threat from hurricanes, floods, and other “natech” by also requiring: safer shutdown/startups; back-up power; real time monitoring; worker involvement and enhanced community notification.

-- Expand the universe of substances and facilities regulated by the RMP program to include ammonium nitrate and reactive substances.

These enhancements to the 2017 rule will allow greater use of vastly under-utilized safer chemical processes that will truly help prevent catastrophic releases that currently threaten the safety and security of millions of Americans.

Sincerely,

**Christine Todd Whitman**, former Administrator, United States Environmental Protection Agency

**Lieutenant General Russel L Honoré**, US Army (Ret), Joint Task Force Katrina and founder, the GreenARMY

**Major General Randy Manner**, US Army (Ret), former Acting Director and Deputy Director, Defense Threat Reduction Agency

**Robert M. Bostock**, Assistant to the Administrator for Homeland Security (2001-2003)

**David Halperin**, Lawyer and former staff member, National Security Council and Senate Intelligence Committee

**David Michaels**, PhD, MPH, Professor, George Washington University School of Public Health, Assistant Secretary of Labor for OSHA 2009-2017

**Jerry Poje**, Ph.D., founding Board member of the U.S. Chemical Safety and Hazard Investigation Board

**Sanford Lewis**, Attorney and author, The Safe Hometowns Guide

**Mark Rossi**, PhD, Executive Director, Clean Production Action

**Andrew Roesnbert**, PhD, Director, Center for Science and Democracy, Union of Concerned Scientists

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