



Written Statement of

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To the

Environmental Protection Agency

Regarding a Public Listening Session on the

Risk Management Program Rule

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Good morning. I am Judah Prero, assistant general counsel for the American Chemistry Council (ACC).

ACC represents the major chemical producers across the United States, including a diverse set of small and medium-sized companies engaged in the business of chemistry. ACC members make and enhance products that are critical to the everyday health and welfare of our nation and are essential to developing a greener, cleaner, and more competitive economy.

ACC and its members are committed to working with the Environmental Protection Agency (EPA) to ensure the Agency makes the best and appropriate use of its regulatory authority for preventing accidental releases at chemical facilities and safeguarding communities. By working together, we have been able to successfully advance chemical safety on a number of fronts.

We appreciate the opportunity to provide our comments today and strongly believe that utilizing the feedback received through public comment is a vital and necessary part of the regulatory review process.

In regard to the topic of today's listening session regarding the Risk Management Program (RMP), Carlton Waterhouse, EPA Deputy Assistant Administrator for the Office of Land and Emergency Management stated "These listening sessions are a first step in considering improvements to the RMP rule, so EPA can better address the impacts of climate change on facility safety and protect communities from chemical accidents, especially vulnerable and overburdened communities living near RMP facilities."

We respect the goals outlined for the listening session and believe that EPA has the tools it needs under the existing RMP to address climate change impacts and to protect those communities living near RMP facilities. Major systematic changes are not only not needed, they could severely impair the ability of RMP regulated facilities to operate, and could adversely affect the security and resiliency of the supply chains that the President is seeking to protect.

Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis states that "the Federal Government must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making."

It is imperative that EPA adhere to this directive and utilize the best science and data when analyzing the effectiveness of the current RMP regulations. Fortunately, there is information that is readily available to help guide the agency in this endeavor.

From 2007-2016, EPA data show that there were 1,368 RMP accidents reported by a total of 947 facilities. RMP accidents declined steadily during this time from 204 in 2007 to 99 in 2016, representing a 45.3% reduction. Given that the total RMP community includes approximately 12,500 covered facilities, this data shows that a small portion, about 8%, of the RMP community was responsible for 100% of all RMP accidents. In other words, 92% of all RMP covered facilities had NO RMP accidents from 2007-2016. Furthermore, nearly half (45%) of the reported accidents from 2007-2016 occurred at facilities who experienced multiple events.

As the agency looks to improve its oversight of chemical safety and the success of RMP, it's important to note that a lack of sufficient regulations is not the problem. As EPA's own data demonstrates, a more effective approach would be to focus on targeted enforcement and providing additional compliance assistance.

Specific to climate change, I would like to highlight the fact that EPA presently requires that all Risk Management Plans identify the potential effects of a chemical accident, including an evaluation of worst-case and alternative accidental releases. The plans must also explain the steps the facility is taking to prevent an accident, including safety precautions and maintenance, monitoring, and employee training measures. Under requirements in the current program, the impact of severe weather events such as storms and flooding on operations, and consequently the risk they pose for an accidental release, must already be considered and addressed in the plans submitted to EPA.

Another important component of the existing program addresses community engagement by requiring facilities to develop an emergency response program that spells out emergency health care, employee training measures and procedures for informing the public and response agencies should an accidental release occur. This includes working with the neighboring communities to address safety concerns and ensure their protection to the greatest degree possible.

It's important to remember that EPA (and the Department of Homeland Security) have recognized that there are risks involved with broad sharing of chemical safety information. The

more people that have sensitive security related information, the greater the security risk is to the facility, and therefore the risk to neighbors from an intentional act causing a release. That is why the federal government has put protective measures in place to help ensure sensitive information cannot be used to cause harm.

In its review of RMP, we encourage EPA to use its authority to better utilize the tools of the existing program rather than developing new regulatory requirements that will create additional complexity without providing any quantifiable benefit. As stated earlier, RMP has a strong track for helping to deliver tangible safety benefits. To preserve the integrity of the program and adhere to EO 13990, the need for any proposed changes or new elements must be supported by actual data and clearly demonstrate they would in fact improve safety. We continue to be strong supporters of RMP and we are ready to work with you to tackle the issues that the Executive Order was intended to address. Thank you.