

March 23, 2024

**VIA ELECTRONIC SUBMISSION**

The Honorable Douglas L. Parker  
Assistant Secretary of Labor for Occupational Safety and Health  
Occupational Safety and Health  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

**RE: Request for Extension of Comment Deadline; Docket No. OSHA-2007-0073;  
Notice of Proposed Rulemaking; Emergency Response Standard**

Dear Assistant Secretary Parker:

On behalf of the Employers Emergency Response Rulemaking Coalition (“Coalition”), I am writing to respectfully request that the Occupational Safety and Health Administration (“OSHA” or “the agency”) extend the deadline for the submission of comments on the above-referenced proposed rulemaking for ninety (90) additional days to provide the regulated community and interested stakeholders, including the Coalition, sufficient opportunity to analyze the proposed rule and related materials, and prepare and submit meaningful comments to the agency. Additionally, we respectfully request that OSHA hold a public hearing about the proposed rule.

The Employers Emergency Response Coalition is composed of a broad array of industries potentially impacted by OSHA’s proposed rulemaking. The Coalition represents thousands of organizations directly or through various industry trade associations, with facilities located across the United States. Included among its members are companies in petroleum refining, chemical and petrochemical manufacturing, liquid terminal operations, agriculture, paper and pulp manufacturing, energy utilities, and other industries. Our membership includes segments of the regulated community potentially significantly impacted by OSHA’s proposed rulemaking. Given the number of members potentially impacted by OSHA’s proposal, the Coalition has a substantial interest in the outcome of this rulemaking.

Extending the deadline to provide an additional 90 days for comment will allow the Employers Emergency Response Coalition and other stakeholders the necessary time to gather data and information that will assist OSHA in determining how to efficiently and effectively protect emergency responders. The Coalition believes that this additional time is necessary to respond to this proposed rulemaking for multiple reasons. First, the Notice of Proposed Rulemaking (“NPRM”), published in the Federal Register (“FR”) on February 5,

2024, is voluminous and highly complex and technical. As reflected in OSHA’s “Questions and Issues Compiled From the Emergency Response Notice of Proposed Rulemaking,” OSHA has asked approximately seventy (70) separate detailed questions, many of which have several subparts. *See* OSHA [“Questions and Issues Compiled From the Emergency Response Notice of Proposed Rulemaking”](#) (last accessed March 23, 2024). Providing OSHA with accurate, meaningful feedback will require a substantial time investment to analyze the questions, collect data, consult with industry experts, and compile it in a way that will be useful to the agency. An extension would allow Coalition members needed time to fully review this complex and technical rule, consult with their colleagues, gather data, and provide more informed and meaningful comments.

Second, as set forth in the NPRM, there are numerous ways in which State OSH Plan states will be affected by this proposed rulemaking, particularly with respect to their respective treatment of volunteer emergency responders. Indeed, OSHA has asked numerous questions on this topic in the NPRM. *See id.* Directly or indirectly, Coalition members may be impacted by this aspect of the rulemaking. The Coalition believes it would be useful to OSHA for it to gather data and information regarding State OSH Plan states, including, to the extent feasible, on a state-by-state basis. Gathering this data and information will take additional time.

Third, the volume of background material relevant to this rulemaking is enormous. In addition to the NPRM, materials associated with the proposed rulemaking – including the Emergency Response and Preparedness Request for Information (“RFI”), National Advisory Committee on Occupational Safety and Health (“NACOSH”) subcommittee for Emergency Response and Preparedness transcripts and recommendations, Emergency Response Small Business Advocacy Review (“SBAR”) Panel Report, existing supporting and related materials submitted on the docket, and numerous voluntary consensus standards being proposed for incorporation by reference – span a nearly 20 year time period and add up to thousands of pages of material. Additional time is needed to carefully review, digest, and provide meaningful feedback with the benefit of these contextual documents.

Fourth, members of the Employers Emergency Response Coalition have substantial amounts of historic data that would be very helpful to the agency in its rulemaking, but that will take time to gather internally, validate, and compile in a way that is useful to OSHA. OSHA’s current deadline for this rulemaking will make it impossible for the Coalition to do so.

Fifth, the current window to provide public comments encompasses numerous holidays, including President’s Day, Easter, Passover, and Ramadan, and schools’ spring break, thus narrowing the time available to stakeholders to gather relevant data and information (especially since these efforts regularly require coordination among numerous individuals), analyze and compile them, and finally, incorporate them into a meaningful set of comments.

Last, and importantly, many Coalition members, as well as other interested stakeholders, operate workplaces with processes covered under the Environmental Protection Agency’s (“EPA”) Risk Management Program (“RMP”) regulations, which have just been amended on

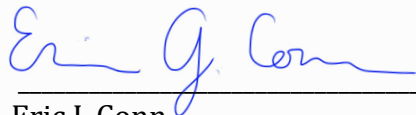
March 11, 2024. *See* 89 FR 17622 (March 11, 2024). The RMP amendments take effect on May 10, 2024, right in the middle of the current comment period for OSHA's emergency response rulemaking. *See id.* There simply are not enough resources to obtain the quality data and information OSHA needs to address the Emergency Response proposal in this short window of time while those same resources are focused on understanding and implementing the amended RMP regulations.

Coalition members take the safety and health of their emergency responders very seriously. We would like to work with OSHA to help shape the contours of any emergency response standard to be effective and workable. This request is not an attempt to delay or sidetrack this rulemaking; rather, it is being requested to help ensure that the rulemaking is conducted in a thoughtful manner and that OSHA has solid, robust data and information on which to make important decisions about how to regulate emergency response activities.

Accordingly, we respectfully request that OSHA extend the comment period by at least 90 additional days so that interested stakeholders and the public have sufficient time to give meaningful review to the NPRM and associated materials, as well as to compile data and information that will be helpful to OSHA moving forward with this rulemaking. Additionally, we respectfully request that OSHA host a public hearing on the proposed rule.

If you have any questions or need further information, please do not hesitate to contact me. Thank you very much for your consideration of this request.

Sincerely,



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Conn Maciel Carey LLP

*Counsel to the Employers Emergency Response Rulemaking Coalition*