

Congress of the United States
Washington, DC 20510

April 14, 2022

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Regan:

We write to express our appreciation and support for your agency's work to protect Americans from chemical disasters. As the Environmental Protection Agency (EPA) works to finalize long overdue updates to the Risk Management Plan (RMP) Rule, we urge you to deliver the strongest possible protections for those who work in RMP chemical facilities, environmental justice communities, first responders, and our most socially vulnerable constituents.

The upcoming revisions to the RMP rule also provide a critical opportunity to protect vulnerable communities from the "double disasters" that result when chemical disasters coincide with climate-related disasters like hurricanes, floods, and wildfires. A new report from the Government Accountability Office (GAO) in February highlighted this problem, finding that roughly a third of RMP facilities are at increased risk from climate impacts and that EPA's existing RMP rule does not adequately protect against these climate risks¹.

As you know, the RMP rule under Section 112(r)(7) of the Clean Air Act Amendments of 1990, the Accidental Release Prevention provision, was established to prevent a Bhopal-level catastrophe from happening in the United States, after near misses and serious chemical disasters had already occurred here. Nearly 30 years after the rule's inception, its goal of preventing disasters like fires, leaks, and explosions at U.S. chemical facilities is still essential, as the threat of chemical disasters is still real for many communities, workers and first responders.

Over 175 million people in the United States live near the roughly 12,000 high-risk chemical facilities that are regulated under EPA's RMP Rule. Thousands of Americans work in these facilities and are at great risk when a chemical disaster occurs. Many more work or attend school within areas at risk of an RMP worst-case scenario. The fenceline communities located closest to these facilities and facing tremendous threat are disproportionately communities of color and low-income communities, who are already faced with other social and environmental stressors that increase their vulnerability and make recovery difficult.

The existing rule has not adequately addressed these challenges. Recent chemical disasters have highlighted shortcomings in federal regulations that fail to sufficiently protect workers and communities living near hazardous chemical facilities. In the last ten years for which data is available, there have been 149 harmful chemical disasters per year, on average, including large-

¹United States Government Accountability Office. (2022, February). Chemical Accident Prevention: EPA Should Ensure Regulated Facilities Consider Risks from Climate Change. <https://www.gao.gov/products/gao-22-104494>.

scale chemical releases, fires, and explosions.² This does not account for near-misses, and some of these events could have been much worse had it not been for highly trained union workers acting to prevent a more disastrous outcome. As severe weather events become more frequent, it is clear we must better protect communities in the Gulf and coastal communities across the country facing the threat of an Arkema-like disaster or worse. Workers are especially at risk. Of all reported chemical incidents from 1999-2008, injuries were highest among workers—and the economic consequences for a workforce can be devastating in the aftermath of catastrophic incidents.

As representatives of millions of Americans living with the threat of chemical disasters, we urge the EPA to prioritize prevention in updates to the RMP. To do so, EPA should require hazard reduction and best practice prevention measures, such as transitioning to inherently safer chemicals and processes, implementing root cause analyses following incidents, and requiring third-party audits to verify facility compliance. The RMP updates should cover whole facilities, and EPA should consider expanding the program to cover additional facilities. The rule should support the development of cascading chemical release consequence models for adjacent facilities, and for chemical release modeling compounded with other hazards including climate change. The rule should also recognize climate change as a threat multiplier and require both assessment of the risks of these “double disasters” and preparation to prevent these cascading incidents, as emphasized in the GAO’s February 2022 report.

In addition to focusing on prevention, we also urge EPA to account for, and protect communities from, the cumulative health impacts of multiple polluting facilities and underlying vulnerabilities in the RMP update. Common sense emergency response measures, such as back-up power, leak detection, and real-time air monitoring, along with broad and accessible information access – such as multilingual outreach *before* an incident occurs – should be included. Workers should also be recognized and protected as key partners in prevention, through measures like stop-work authority and anonymous safety reporting including workers in the development of decision-making for safety protocols.

These critical updates to the RMP rule to prevent future chemical disasters will mitigate hazards to vulnerable populations and environmental justice communities, enable workers to perform their jobs safely, allow first responders to respond safely and more effectively to incidents, and empower communities to focus on protecting themselves during extreme weather events without the additional burden of toxic exposure.

Thank you for your work on this and other environmental justice issues. We look forward to working with you to ensure that the communities we represent, and those across the country, are protected from the danger of chemical disasters through a strong RMP rule.

² Comments on Federal Register Notice Number 2021-11280, “Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Notice of Virtual Public Listening Sessions,” Docket Number EPA-HQ-OLEM-2021-0312. Submitted by Ray Curry, President, International Union, UAW via Regulations.gov. https://downloads.regulations.gov/EPA-HQ-OLEM-2021-0312-0058/attachment_1.pdf.

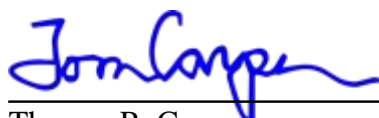
Sincerely,



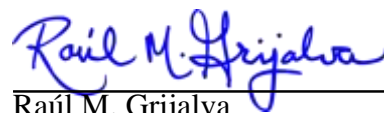
Cory A. Booker
United States Senator



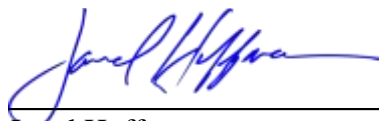
Nanette Diaz Barragán
Member of Congress



Thomas R. Carper
United States Senator



Raúl M. Grijalva
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Chair, Committee on Natural
Resources



Jared Huffman
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A. Donald McEachin
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Earl Blumenauer
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Member of Congress



Steve Cohen
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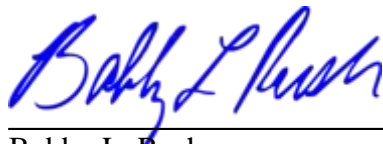
Tammy Duckworth
United States Senator



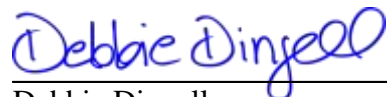
Lisa Blunt Rochester
Member of Congress



Karen Bass
Member of Congress



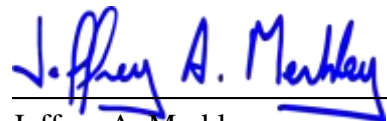
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Member of Congress



Eleanor Holmes Norton
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United States Senator



Adam Smith
Member of Congress



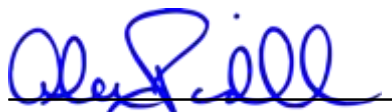
Ro Khanna
Member of Congress



Richard J. Durbin
United States Senator



Bonnie Watson Coleman
Member of Congress



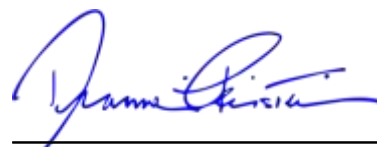
Alex Padilla
United States Senator



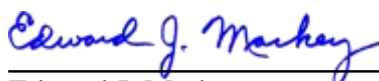
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Member of Congress



Elizabeth Warren
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Dianne Feinstein
United States Senator



Edward J. Markey
United States Senator



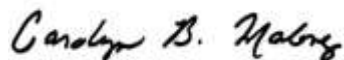
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Mark Pocan
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Member of Congress