

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

Statement of the U.S. Chamber of Commerce

Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Virtual Public Listening Sessions; Request for Public Comment, May 28, 2021 [Docket No. EPA-HQ-OLEM-2021-0312]

July 8, 2021

Thank you for the opportunity to provide comment during EPA's virtual public listening session on the agency's Risk Management Program (RMP) regulations. I am Chad Whiteman, Vice President of Environment and Regulatory Affairs, at the U.S. Chamber of Commerce.

The safety and security of facilities, employees, and communities are paramount to the Chamber and the businesses that we represent, especially for businesses covered under the RMP program. These businesses understand the importance of being good neighbors and work diligently on risk management planning that has led to a significant reduction in the number of RMP incidents. This success is partially due to the business community's efforts to promote continual improvements in process safety performance.

I'd like to share four general, overarching points with you today.

- Businesses Provide Innovative Solutions Meeting the Challenges of Today and Tomorrow
- Management Systems Investments are Reducing Incidents
- Community Engagement and Supply Chain Security Are High Priorities for U.S. Business
- Performance-Based Requirements Are Preferred and Enable Innovation

First, Businesses Provide Innovative Solutions Meeting the Challenges of Today and Tomorrow: The businesses covered under the RMP provide the essential products and services that help drive our economy and provide jobs in our communities. Many of the facilities covered by the RMP program are developing and producing the innovations to help meet the challenges of the pandemic and climate change.

These very facilities make the electric vehicle batteries and light-weight materials used in cars and trucks to reduce the transportation sector's emissions profile; off-shore wind turbines to support the President's goal of deploying 30 GW of offshore wind by 2030; the solar panels deployed in utility scale and residential applications; the insulation found in everything from Energy Star refrigerators to the LEED Platinum certified buildings; the wiring and piping needed to deploy 5G cellular networks and other broadband infrastructure to help close the digital divide; the chemicals used in hand sanitizers and sterilization of medical supplies and equipment during the pandemic; and key materials that are used in smartphones and other consumer electronic components.

These same facilities also provide considerable tax revenue that is used by state and local governments for schools, roads, hospitals, and other public infrastructure.

Second, Management Systems Investments are Reducing Incidents: Our members invest significant resources in their people, equipment, procedures, and management systems. Likewise, they invest in the communities where their employees and facilities are located. These investments have yielded undeniable dividends in improved safety performance, which is essential to the safety of their employees, facilities, and communities in which they operate. Of the more than 12,000 covered facilities under the RMP, the number of RMP incidents declined by more than 50 percent from 2007 to 2016, and almost 90 percent had no RMP incidents from 2007 to 2016.¹ This is no doubt a testament to these resource investments and the business community's commitment to their employees and communities.

Third, Community Engagement and Supply Chain Security Are High Priorities for U.S. Business: Working with neighboring communities to address safety concerns is a top priority. Businesses recognize the importance of community engagement and work with first responders regarding their emergency response programs as well as provide training for employees on procedures to inform the public and to work effectively with government agencies in the event of an accident.

It is also important to keep in mind the potential risks involved with sharing information too broadly, considering the growing risk of cyberattacks and other security challenges. Cyber and other security incidents are a growing threat to both public and private entities. It is why the Chamber launched a National Security Task Force made up of more than 400 companies, associations, and state and local chambers to work with government leaders on these national security challenges to ensure the protection and resilience of cybersecurity, supply chains, and customs and trade facilitation. This is also why the Chamber believes it is important to continue to protect the confidentiality of information deemed under other regulatory programs such as the Chemical Facility Anti-Terrorism Standards (CFATS) and the Marine Transportation Security Act (MTSA) as "Sensitive Security Information" and to continue to protect other similar sensitive and confidential business information.

Through these and other efforts, businesses engage in risk management planning, invest in security, and work to foster a continued partnership with federal, state, and local officials, which is fundamental to ensuring facility safety now and in the future.

Fourth, Performance-Based Requirements Are Preferred and Enable Innovation: An RMP regulatory framework that is performance-based will enable businesses to continuously improve, implement mitigation strategies, and ensure they are effective. Performance-based approaches allow for businesses to innovate and find the most effective means of solving problems. Smart regulation recognizes the variability in the types of equipment and operations of facilities both between and within sectors. Prescriptive requirements often impose a one-size-fits-all set of requirements that may limit compliance options and freeze innovation based on current assumptions concerning existing technologies and processes. To allow for continual improvements in safety, performance-based requirements are essential.

¹ Regulatory Impact Analysis, Reconsideration of the 2017 Amendments to the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7), August 27, 2018

Thank you for the opportunity to share these four thematic comments with you. To close, the business community continues to recognize the importance of facility safety and security to their employees and communities and requests the agency to continue to engage with the regulated community as the agency considers potential changes to the program.