

May 19, 2017

U.S. Environmental Protection Agency  
Attention: Docket ID No. EPA-HQ-OEM-2015-0725  
Mr. James Belke and Ms. Kathy Franklin  
Office of Land and Emergency Management  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Via Electronic Submission: <http://regulations.gov>

**RE: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date; Docket ID No. EPA-HQ-OEM-2015-0725**

The National Association of Chemical Distributors (NACD) strongly supports the U. S. Environmental Protection Agency's (EPA) proposal to delay the effective date of the January 13, 2017, final rule amending the Risk Management Program (RMP) regulations under the Clean Air Act until February 19, 2019.

#### About NACD

NACD is an international association of nearly 440 chemical distributors and their supply-chain partners. NACD members represent more than 85% of the chemical distribution capacity in the nation and generate 93% of the industry's gross revenue. NACD members, operating in all 50 states through nearly 1,800 facilities, are responsible for more than 155,000 direct and indirect jobs in the United States. NACD members are predominantly small regional businesses, many of which are multi-generational and family owned.

NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution®, the association's third-party-verified environmental, health, safety, and security program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Owners and operators of NACD member companies have a personal stake in the safety and security of their employees, companies, and communities. They demonstrate this through the commitment to Responsible Distribution, relationships with employees, involvement in local communities, including participation in Local Emergency Planning Committees (LEPCs), and careful compliance with numerous environmental, transportation, safety, and security regulations at the federal, state, and local levels.

While NACD supports sensible regulations and shares EPA's goals of preventing chemical accidents and improving preparedness, the association has serious concerns about the January 13, 2017, amendments to the RMP regulations, including the haste with which the agency finalized the rule. There are several significant issues with the RMP Amendments that did not receive adequate consideration before publication of the final rule. For example, the issue of

sharing certain chemical information with LEPCs is a cross-agency matter as it involves not only safety and preparedness, but also sensitive security implications that could be of concern to the Department of Homeland Security.

In order to provide adequate opportunity to have these concerns addressed, NACD strongly supports a delay in the effective date of the RMP Amendments final rule until February 19, 2019, as EPA proposed in the April 3, 2017, *Federal Register* notice.

In response to petitions filed by members of the regulated community and several states, EPA Administrator Scott Pruitt has initiated a proceeding to reconsider the RMP Amendments final rule. A delay of the effective date until February 19, 2019, is absolutely necessary to conduct this proceeding thoroughly and to avoid mistakes caused by an inadequate timeframe to consider the complicated issues involved with the RMP Amendments.

EPA rushed the RMP Amendments through the regulatory development process in order to finalize the rule by the self-imposed date of January 2017. This hurried approach began with the Small Business Regulatory Fairness Enforcement Act (SBREFA) panel process prior to the publication of the proposed rule in late 2015. Along with one of our member companies, which served as a small entity representative (SER), NACD participated in this process. We were shocked and disappointed by the haste in which this process was conducted. EPA sent the proposed rule to the Office of Management and Budget (OMB) less than two weeks after the deadline for SERs to submit comments to SBREFA panel and two months before the SBREFA panel officially submitted its recommendations to EPA.

EPA published the RMP proposed rule March 13, 2016, and closed the comment period May 13, 2016. Despite OMB's recommendation for a 90-day comment period, EPA provided a mere 60 days to comment on a complex proposal that will have a major impact on regulated facilities. In the proposal, EPA sought comments on more than 70 explicit topics. In addition, there were almost 300 supporting documents for the proposal, including a 147-page regulatory impact analysis. EPA denied multiple requests for an extension of the comment period, including NACD's.

Further, after the comment period closed, EPA added more than 100 new documents to the docket, several of which were used to justify key provisions of the rule. In addition, even with hundreds of documents in the docket, EPA failed to provide rationale and to conduct adequate cost-benefit analyses for many of the rule's new requirements.

A delay in the effective date until February 2019 is absolutely necessary in order to avoid a repeat of these mistakes and to allow for a thorough analysis of relevant information and any revised proposals.

EPA will need substantial time to gather and analyze all information relevant to the proceeding; to develop alternate proposals to address legitimate concerns about the January 13, 2017, final rule raised by the regulated community and states; and to make the alternate proposals and supporting information available to the public. The public will then need adequate time to analyze the information and to comment on these proposals. Finally, EPA will need time to review all that input to develop and publish a final rule.

There are additional practical reasons why it makes sense to delay the effective date of the final rule. Although the many compliance dates are in the future, the new requirements are complex, and facilities must establish procedures and prepare early to implement them. It

would be a waste of time and resources for facility operators to familiarize themselves with the requirements, train impacted employees, and change their operations to comply with provisions that could be changed as a result of the reconsideration of the rule.

NACD commends EPA for undertaking the process to reconsider the RMP Amendments final rule and for recognizing it will take substantial time to consider all the issues thoroughly.

For the reasons outlined above, NACD strongly supports the proposed rule to delay the effective date of the RMP Amendments until February 19, 2019.

Thank you for the opportunity to provide input on this important issue. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer C. Gibson". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer C. Gibson  
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National Association of Chemical Distributors  
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