

September 23, 2014

SUBMITTED VIA E-MAIL

The Honorable Mathy Stanislaus, Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

By electronic submission: Stanislaus.Mathy@epa.gov

Re: Request for Extension of Comment Period on EPA Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act, Section 112(r)(7) [Docket No. EPA-HQ-OEM-2014-0328; FRL-9911-62-OSWER]; RIN 2050-ZA07

Dear Assistant Administrator Stanislaus,

The National Association of Chemical Distributors¹ (NACD) respectfully requests that the U.S. Environmental Protection Agency (EPA) extend the comment deadline for the Request for Information (RFI) on Potential Revisions to the Clean Air Act Risk Management Program Regulations (RMP)². EPA provided for a 90-day comment period with submissions due on October 29, 2014. NACD requests that the agency extend the comment deadline a minimum of 90 days to January 27, 2015.

NACD requests this extension because 90 days is an inadequate timeframe for such a massive and complex information request that could ultimately result in substantial new requirements for numerous facilities. In the RFI, EPA requests input on 19 topics, covering more than 100 options for consideration. Topics range from expanding the list of covered substances, to adding new program elements, to requiring inherently safer technology (IST) analysis and implementation, to increasing public disclosure of facility information, to

¹ NACD is an international association of nearly 440 chemical distributors and supply-chain partners. NACD's membership comprises businesses representing in total more than 85% of the chemical distribution capacity in the nation and generating 90% 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. The typical chemical distributor has 26 employees and operates under an extremely low margin. NACD members meet the highest standards in safety and performance through mandatory participation in Responsible Distribution®, NACD's third-party verified environmental, health, safety, and security (EHS&S) program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous improvement in every phase of handling, transportation, storage, and disposal of chemical products.

² 79 FR 44604

establishing a “safety case” regulatory regime. Within the topic areas are more than 380 questions, some consisting of multiple parts and many of which are inter-related. EPA also requests detailed information on potential costs, market impacts, and benefits of the proposals.

The owners and operators whose facilities will be most impacted by any changes and who have the greatest insight into the potential impact of these proposals need adequate time to provide critical input. These individuals are working every day to serve their customers and run their businesses safely. With these activities being their livelihood and top priority, these owners and operators must have as much time as possible to adequately address the proposals that will ultimately impact them. Even those who depend on trade associations such as NACD to submit comments on their behalf need time to gather and provide real world data to these organizations. Further, NACD and other trade associations need time to compile and organize the information from members in order to present it to EPA effectively.

During NACD’s meeting with you and others from OSWER on August 6, 2014, you referenced EPA’s timeframe as listed in the *Actions to Improve Chemical Facility Safety and Security – A Shared Commitment* report to the President to finalize a rule to amend the RMP regulations in 2016.³ Deputy Assistant Administrator Breen emphasized the importance of submitting substantial and meaningful comments to the RFI and indicated that the proposed rule stage would be accelerated in order to meet the 2016 date for a final rule. Given the significance of comments to the RFI under this plan, it is critical for affected parties to have adequate time to address the complex issues in the document.

There is recent precedent for a much more reasonable timeframe for making major regulatory changes such as those contemplated in EPA’s RFI. On December 9, 2013, the Occupational Safety and Health Administration (OSHA) published an RFI on potential revisions to its Process Safety Management standard⁴. This RFI included approximately 100 questions and ultimately allowed for a 111-day comment period. In the *Shared Commitment* report to the President, OSHA stated the RFI was “the first step of a rulemaking process that will include multiple opportunities for public input.”⁵ OSHA will also convene a Small Business Regulatory Fairness Enforcement Act panel, recognizing this will prolong the rulemaking process, but also acknowledging the impact its proposals could have on small businesses.

NACD requests that EPA take a more deliberative approach on such a significant regulatory undertaking, beginning with a minimum 90-day extension of the RMP RFI comment period.

We would appreciate receiving EPA’s response to this request as soon as possible in order to manage our resources effectively in further analyzing the RFI and collecting important information from our members. If you have questions or would like to discuss this request, please contact me at (571)482-3047 or by e-mail at jgibson@nacd.com.

³ Executive Order 13650 *Actions to Improve Chemical Safety and Security a Shared Commitment*, page 35

⁴ 78 FR 73756

⁵ Executive Order 13650 *Actions to Improve Chemical Safety and Security a Shared Commitment*, page 33

Thank you for your consideration of this request.

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
Vice President, Regulatory Affairs
National Association of Chemical Distributors

cc: Barry Breen, Deputy Assistant Administrator, EPA Office of Solid Waste and Emergency Response
Nitin Natarajan, Deputy Assistant Administrator, EPA Office of Solid Waste and Emergency Response
Reggie Cheatham, Acting Director, EPA Office of Emergency Management
Jim Belke, RMP Coordinator, EPA Office of Emergency Management