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WASHINGTON, DC 20510-6175

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September 29, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy:

I am writing regarding the Environmental Protection Agency's (EPA) proposed rule updating chemical facility safety requirements under the Clean Air Act. After a series of chemical disasters, including the devastating ammonium nitrate explosion at the West, Texas fertilizer plant in 2013, President Obama issued Executive Order 13650, "Improving Chemical Facility Safety and Security," directing federal agencies to modernize agency policies, regulations, and standards to improve chemical facility safety. On March 14, 2016, EPA responded with a proposed rule to update its Risk Management Program (RMP) chemical safety regulations.

After reviewing EPA's proposal, it has become clear that it falls short of what is needed to reduce the risk faced by workers and local communities. For too long, we have seen the consequences of chemical disasters. From 2004-2013 alone, EPA documented more than 1,500 accidents at hazardous chemical facilities. The result was nearly 60 people killed, about 15,000 people injured or seeking medical treatment, almost 500,000 people evacuated or sheltering in place, and property damage of more than \$2 billion.

Millions of Americans live with the daily risk of a devastating chemical disaster. The people most in danger from hazardous chemical releases are workers and fenceline communities, which face significant environmental justice issues. Despite this, EPA's proposed rule does not require all hazardous chemical facilities take steps to prevent, not just manage, disasters.

EPA should do more to prevent disasters, including requiring the implementation of Inherently Safer Technology (IST). EPA and the Occupational Safety and Health Administration recognized in a 2015 voluntary Chemical Safety Alert that "The first choice for managing chemical hazards and risks is the use of Inherently Safer Technology (IST)." The U.S. Chemical Safety and Hazard Investigation Board (CSB), former EPA Administrator Christine Todd Whitman, and a diverse coalition of over 100 national and local environmental justice, labor, security, and environmental groups have also called for implementation of IST where feasible.

EPA needs to strengthen its rule before taking final action. Specifically, I urge you to ensure that the following prevention requirements are added to the rule before it is finalized this year:

- Require all hazardous chemical facilities (including at least all Risk Management Program level 2 and 3 facilities) to conduct a safer technology and alternatives analysis -- and to do so within 5 years. In the proposed rule, this important requirement applies to just 12 percent of the 12,542 chemical facilities in EPA's RMP.
- Require all facilities to submit these analyses to EPA and make appropriate summaries, with due consideration of security issues, available to the affected public online. Workers and surrounding communities must be able to take action locally to help protect themselves and their families.
- Require not just an analysis but actual implementation. It is not enough merely to assess and determine that a chemical, technology, maintenance and process requirement, or monitoring method for leaks is safer, cost-effective and feasible -- such tools must actually be put in place to save lives. This could start with a pilot program to ensure selected facilities put all feasible inherently safer technology (IST) measures in place as soon as possible.
- Follow the lead of the 2014 report of California's Interagency Working Group on Refinery Safety which called for new requirements to "implement inherently safer systems to the greatest extent feasible".

EPA's rule is a rare opportunity to save lives and protect children's safety by preventing catastrophic chemical disasters. If the rule is not strengthened, every day another generation of children will grow up at risk. All workers and fenceline communities deserve the best available chemical disaster prevention and EPA's RMP rule is the one chance in a generation to ensure strong nationwide protection.

Thank you for your leadership on this issue and for working to strengthen this rule and fulfill the President's call to improve chemical safety.

Sincerely,



Barbara Boxer
Ranking Member