



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 13 2017

THE ADMINISTRATOR

Justin Savage, Esq.  
Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, N.W.  
Washington, DC 20004

RE: Convening a Proceeding for Reconsideration of the Final Rule Entitled “Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act,” published on January 13, 2017, 82 Fed. Reg. 4594

Dear Mr. Savage,

The United States Environmental Protection Agency (“we” or “the EPA”) has considered the petition for reconsideration of the above-captioned rule that you submitted on behalf of the “RMP Coalition.”<sup>1</sup> This rule, known commonly as the “Risk Management Program Amendments,” modified or added several provisions in 40 CFR part 68 regarding the prevention of accidental releases, as well as emergency response preparedness, and the sharing of information about such activities with the public. In your petition, you identify several aspects of the rule that you contend meet the standard for reconsideration under CAA section 307(d)(7)(B). The RMP Coalition claims several portions of the Risk Management Program Amendments were adopted without adequate opportunity for public comment. In addition, the petition for reconsideration asserts that it was impracticable for commenters to address in their comments the significance of the May 11, 2016 determination by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“BATF”) that the fire and explosion at a fertilizer facility in West, Texas was caused by an intentional, criminal act. The public comment period closed on May 13, 2016.

We find the petition has raised one or more objections to Risk Management Program Amendments that arose after the comment period or were impracticable to raise during the comment period and that are of central relevance to the rule, and thus by this letter, we are convening a proceeding for reconsideration of the Risk Management Program Amendments. Among the objections raised in the petition that meet the requirements for a petition for reconsideration under CAA section 307(d)(7)(B), we believe the timing of the BATF finding on

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<sup>1</sup> The American Chemistry Council, the American Forest & Paper Association, the American Fuel & Petrochemical Manufacturers, the American Petroleum Institute, the Chamber of Commerce of the United States of America, the National Association of Manufacturers, and the Utility Air Regulatory Group.



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the West, Texas incident, which was announced just before the close of the public comment period, made it impracticable for many commenters to meaningfully address the significance of this finding in their comments on this multi-faceted rule. Prior to this finding, many parties had assumed that the cause of the incident was accidental. Additionally, the prominence of the incident in the policy decisions underlying the rule makes the BATF finding regarding the cause of the incident of central relevance to the Risk Management Program Amendments. With respect to other issues raised in the RMP Coalition's petition for reconsideration, we agree that at least some final rule provisions may have lacked notice and would benefit from additional comment and response.

We will prepare a notice of proposed rulemaking in the near future that will provide the RMP Coalition and the public an opportunity to comment on the issues raised in the petition that meet the standard of CAA section 307(d)(7)(B) as well as any other matter we believe will benefit from additional comment. We appreciate your input and your interest in this matter.

If you have any questions on this action, please contact Reggie Cheatham in the Office of Land and Emergency Management at 202-564-8003 or by email at [cheatham.reggie@epa.gov](mailto:cheatham.reggie@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, stylized flourish above the name.

E. Scott Pruitt  
Administrator