



PROPOSED AMENDMENTS TO EPA'S RISK MANAGEMENT PROGRAM REGULATIONS

Auditing Roundtable
South Central Regional Meeting

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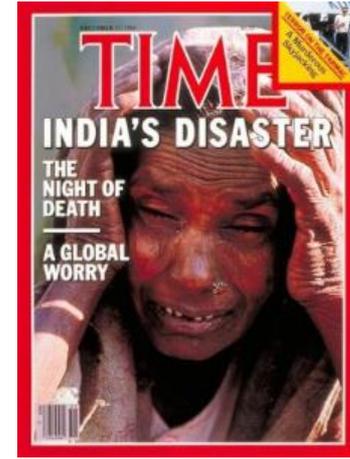
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OVERVIEW

- Background on EPA's Risk Management Program
- Overview of Existing RMP Regulations
- Review of Proposed Rule
 - Prevention Program Requirements
 - Emergency Response Preparedness Requirements
 - Information Availability Requirements
 - Compliance Dates

BACKGROUND ON RISK MANAGEMENT PROGRAM

- 1984, Union Carbide, Bhopal India
 - Official:
 - 2,259 immediate fatalities
 - Additional 1,528 fatalities
 - 558,125 injuries
 - Unofficial
 - 8000 fatalities within 2 weeks
 - 8000 additional fatalities
- 1985, Waxman (D. CA) introduces first proposed legislation



BACKGROUND ON RISK MANAGEMENT PROGRAM (CONT.)

- 1986 EPCRA
- 1990 CAA Amendments
 - Section 112(r)
 - General duty clause
 - List of substances and threshold quantities
 - RMP regulations
 - CSB created
 - OSHA directed to adopt PSM standard

OVERVIEW OF EXISTING RMP REGULATIONS

- 3 Main Components
 - Hazard assessment
 - Prevention program
 - Emergency response program
- Risk Management Plans
 - Due within 3 years of 6/1999
 - Resubmissions due every 5 years or earlier if triggering event

OVERVIEW OF EXISTING RMP REGULATIONS (CONT.)

- Applicability
 - Stationary source owner/operator
 - More than a threshold quantity of a regulated substance
 - In a process
- Three-Tiered Program
 - Program 1
 - Program 2
 - Program 3

OVERVIEW OF EXISTING RMP REGULATIONS (CONT.)

- Program 1
 - Processes that would not affect the public in the event of a worst-case release and no accidents with offsite consequences in past five years
 - Limited to hazard assessment, coordination with local responders, and submission of risk management plan

OVERVIEW OF EXISTING RMP REGULATIONS (CONT.)

- Program 2
 - Processes not eligible for Program 1 and not subject to Program 3
 - Requires streamlined prevention program requirements and additional hazard assessment, management and emergency response requirements

OVERVIEW OF EXISTING RMP REGULATIONS (CONT.)

- Program 3
 - Processes not eligible for Program 1 and either subject to OSHA PSM standard or in one of 10 specific industry sectors
 - Accident prevention requirements nearly identical to OSHA accident prevention program – *i.e.*, 14 PSM elements
 - Also includes Program 2 requirements

BACKGROUND ON PROPOSED RULE

- Why is EPA revising the RMP regulations now?

<https://www.youtube.com/watch?v=b1UbSYOxhjU>

BACKGROUND ON PROPOSED RULE (CONT.)

- BP Texas City
 - March 23, 2005
 - 15 fatalities; 170 injuries



BACKGROUND ON PROPOSED RULE (CONT.)

- Tesoro Anacortes
 - April 2, 2010
 - 7 fatalities



BACKGROUND ON PROPOSED RULE (CONT.)

- Chevron, Richmond
 - August 6, 2012
 - 19 employees endangered
 - 15,000 residents sought medical treatment



BACKGROUND ON PROPOSED RULE (CONT.)

- West Fertilizer
 - April 17, 2013
 - 15 fatalities; 160 injuries



- <https://www.youtube.com/watch?v=b1UbSYOxhjU>

BACKGROUND ON PROPOSED RULE

- Williams, Geismar
 - June 13, 2013
 - 2 fatalities; numerous injuries



BACKGROUND ON PROPOSED RULE (CONT.)

- August 2013 – Executive Order 13650
 - Improving coordination between federal, state, and local planners
 - Enhanced information collection and sharing
 - Modernizing policies, regulations, and standards
 - Working with stakeholders to identify best practices
 - Section 6 – consider possible changes to regulations
- December 2013 – OSHA PSM RFI
 - Potential revisions to PSM standard
 - Identifies 17 topics for potential rulemaking
 - Proposed rule has not been issued

BACKGROUND ON PROPOSED RULE (CONT.)

- May 2014 – Working Group Report
 - EPA, Homeland Security, DOL (OSHA), DOT, others
 - Develop plans to expand, implement and enforce RMP and RFI
- July 2014 – EPA RMP RFI
 - Requests information from stakeholders regarding potential changes to RMP regulations

BACKGROUND ON PROPOSED RULE (CONT.)

- July 2014 – EPA RMP RFI (cont.)
 - Areas covered in RFI but not addressed by proposed rule:
 - Expand list of regulated substances to include AN and other toxic or flammable substances
 - Define RAGAGEP
 - Require IST
 - Expand MI requirements to cover any “safety critical equipment”
 - Mandate “safety case”
 - Prescribe new facility siting requirements
 - Mandate automatic detection and monitoring requirements
 - Require off-site consequence data to be made publicly available

BACKGROUND ON PROPOSED RULE (CONT.)

- Dec., 21, 2015 – EPA proposed rule sent to OMB
- February 25, 2016 – Pre-publication version of proposal released
- Comment period – 60 days beginning on day of *Federal Register* publication
- *Federal Register* publication – two weeks??
- Final rule issued – Fall 2016??

OVERVIEW OF PROPOSED RULE

- Prevention Program Requirements
 - Incident Investigation
 - Third-Party Compliance Audits
 - Safer Technology and Alternatives Analysis
- Emergency Response Preparedness Requirements
 - Coordination with Local Responders
 - Facility Exercises

OVERVIEW OF PROPOSED RULE (CONT.)

- Information Availability Requirements
 - LEPC Disclosure Requirements
 - Public Availability of Information
- Compliance Dates

PREVENTION PROGRAM REQUIREMENTS

- Incident Investigations
 - Expanded definition of “catastrophic release” would significantly increase number of incidents that must be investigated
 - New requirement to determine underlying, system-related “root cause” would prevent human error from being cause of any incident
 - Use of undefined term “near miss” creates confusion in light of preamble statements suggesting that “any unanticipated release” and “some process upsets” could be considered near misses

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Incident Investigation – Current vs. Proposed

- “The owner or operator shall investigate each incident ~~that which~~ (1) resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance . . . or (2) Could reasonably have resulted in a catastrophic release (i.e., was a near miss).”
- “Catastrophic release means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that ~~presents imminent and substantial endangerment to public health and the environment~~ results in deaths, injuries, or significant damage on-site, or known offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Incident Investigation – Current vs. Proposed (cont.)
 - The report shall include . . . “factors that contributed to the incident including the initiating event, direct and indirect contributing factors, and root causes.”
 - “Root cause means a fundamental, underlying, system-related reason why an incident occurred that identifies correctable failure(s) in management systems.”

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Third Party Compliance Audits
 - When is it required?
 - Facility has an RMP-reportable accident, or
 - Regulatory authority requires one based on noncompliance with the RMP rules (right to appeal agency decision)
 - Auditor Qualifications
 - Competency
 - Independence
 - Impartiality

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Third Party Compliance Audits (cont.)
 - Competency
 - RMP program knowledge
 - Source type experience
 - Experience with specific process units being audited
 - Experience with applicable RAGAGEP
 - Certification and training
 - PE

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Third Party Compliance Audits (cont.)
 - Independence and Impartiality
 - Receive no financial benefit tied to outcome
 - Has not conducted consulting services for owner/operator in past three years
 - Cannot provide consulting services for or accept employment with owner/operator for three years following the audit

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Third Party Compliance Audits (cont.)
 - Audit Report
 - Include draft report to show changes made in response to owner/operator comments
 - Audit Findings
 - 90 days after completion of audit owner/operator must submit response to each finding with a schedule for “promptly” addressing deficiencies
 - Submission to Audit Committee of Board of Directors
 - Recordkeeping
 - Auditor and owner/operator must retain audit reports for five years

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Safer Technology and Alternatives Analysis
 - Applies to Program 3 facilities in three industries:
 - paper manufacturing
 - coal and petroleum products manufacturing
 - chemical manufacturing
 - Rule does NOT require sources to implement IST or ISDs
 - Rather, sources are required to evaluate the “feasibility” of safer technology and alternatives when conducting PHAs

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Safer Technology and Alternatives Analysis (cont.)
 - PHA must include analysis of potential safer technology and alternatives in the following order of preference: IST or ISD, passive measures, active measures, procedural measures
 - IST/ISD: measures that would replace or reduce the use of regulated substances or make operating conditions less hazardous or complex
 - Passive measures: dikes, berms, blast walls
 - Active measures: alarms, safety instrumented systems
 - Procedural measures: policies, operating procedures, training

PREVENTION PROGRAM REQUIREMENTS (CONT.)

- Safer Technology and Alternatives Analysis (cont.)
 - Definition of “feasibility”: “capable of being successfully accomplished within a reasonable time, accounting for economic, environmental, legal, social and technological factors.”

EMERGENCY RESPONSE PREPAREDNESS

- Coordination with Local Responders
 - Annual coordination with LEPC
 - Documentation of coordination efforts:
 - Names and contact information of individuals involved
 - Dates of coordination
 - Conclusions
 - Next steps

EMERGENCY RESPONSE PREPAREDNESS (CONT.)

- Facility Exercises
 - Annual tabletop emergency response exercises
 - Field exercise every 5 years
 - Annual notification exercises

INFORMATION AVAILABILITY REQUIREMENTS

- LEPC Disclosure Requirements
 - Regulated substances on site
 - Compliance audit summary reports
 - Summaries of incident investigation reports
 - Summary if IST implemented or planned to be implemented
 - Reports on emergency response exercises/drills

INFORMATION AVAILABILITY REQUIREMENTS (CONT.)

- Public Availability of Information
 - Names of hazardous chemicals
 - MSDSs for all regulated substances at facility
 - Five-year accident history
 - Summary of emergency response program
 - Summary of emergency response exercises
 - LEPC contact information

COMPLIANCE DATES

- Third Party Audits – 4 years after effective date
- Root cause analysis – 4 years after effective date
- STAA – 4 years after effective date
- Emergency response coordination – within 1 year of effective date
- LEPC Disclosure – within 3 years of receipt of request

COMPLIANCE DATES (CONT.)

- Emergency response exercises – 4 years after effective date
- Information sharing – 4 years after effective date
- Update RMP – 5 years after effective date

THANK YOU



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