

Technical Focus Group, Energy & Environmental
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Regulatory Update: EPA's Revisions to the RMP Rule: Immediate Requirements and The Delay and Reconsideration Rules

Presented by

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RMP Delay and Reconsideration Rules

Delay Rule:

- ❖ August 17, 2018: D.C. Circuit vacates Delay Rule
- ❖ September 21, 2018: D.C. Circuit issues its mandate
- ❖ Practical effect: The minor revisions are now in effect.

Reconsideration Rule:

- ❖ February 19, 2019: EPA's initial proposed effective date for Reconsideration Rule
- ❖ Months of delay: EPA is still working on Rule
Next public step will be OMB review

Major Provisions and Their Implementation Dates

- **3 years: Emergency Response Program**
- **March 15, 2021**
 - ❖ **Third Party Audit**
 - ❖ **Root cause methodology**
 - ❖ **STAA**
 - ❖ **Emergency Response drills**

Six Immediate Requirements in the RMP Amendments

- **RMP compliance audits must be done for “each covered process”**
- **Supervisors “with process operational responsibilities” must be trained**
- **Incident reports with expanded content completed within 12 months**
- **PHAs must address findings from incident reports and potential failure scenarios**
- **PSI must be kept “up-to-date”**
- **Emergency response coordination with LEPC**

Auditing Requirement

- **(Old)** The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.
- **(Revised)** 68.79 “The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart **for each covered process**, at least every three years to verify that the procedures and practices developed under **the rule** are adequate and are being followed.”

Practical Issues with Audits

- **How many RMP covered processes do you have?**
- **EPA Policy**
 - The requirement to audit “each covered process” is not a new requirement but is simply a restatement of EPA’s interpretation of the requirements in the prior rule.
 - Implicit in this is that every process has been subject to the 3 year auditing requirement.

Training of Supervisors

- **(Old Rule)** Operators of process receive initial training, refresher training, verification and documentation.
- **(Revised)** The term employee also includes supervisors with “process operational responsibilities.”
- Preamble - “If a supervisor is involved in decision-making for process operations, such as making changes to operating parameters, developing or approving operating procedures, or conducting emergency operations, then EPA expects that the supervisor receives initial and refresher training appropriate to the supervisor's responsibilities. 82 FR 4594-01”

Incident Investigations

➤ § 68.81 Incident Investigation

- (a) The owner or operator shall investigate each incident that:
 - (1) Resulted in a catastrophic release (including when the affected process is decommissioned or destroyed following, or as the result of, an incident); or
 - (2) Could reasonably have resulted in a catastrophic release (i.e., was a near miss).

- (d) A report shall be prepared at the end of the investigation.

Incident Investigations

- **Written report shall be prepared within 12 months of incident and include -**
 - Time, date and location of incident
 - Date incident investigation began
 - Description of incident, in chronological order, providing all relevant facts
 - Name and amount of RS released, duration of event
 - Consequences of incident -- injuries, fatalities, evacuees, sheltering in place, environment impact

Incident Investigations

- **Written report shall be prepared within 12 months of incident and include -**
 - Contributing factors
 - Emergency response actions
 - Recommendations and a schedule for addressing them

- **The requirement of using a recognized root cause methodology does not apply until March 15, 2021**

Incident Investigations

- **Near miss – not defined in the final rule**
- **Near Miss (Preamble)**

“The intent is not to include every minor incident or leak, but focus on serious incidents that could reasonably have resulted in a catastrophic release, although EPA acknowledges this will require subjective judgment.” 82 Fed. Reg. at 4606.

PHA: Findings and Failure Scenarios

➤ **The PHA shall also address:**

- (2) Findings from all incidents required by 68.81 and
“any other potential failure scenarios.”**

PHA and Failure Scenarios

Potential Failure Scenarios (Preamble)

“In response, as stated in the preamble to the proposed rulemaking, other potential failure scenarios can include incidents that occurred at other similar facilities and or processes, failure mechanisms discovered in literature, or from other sources of information. EPA believes that it is appropriate to research information about other potential scenarios and consider these scenarios when conducting a (PHA).” 82 Fed. Reg. at 4635.

- **When is the next PHA scheduled for review?**
 - Need to address findings and failure scenarios

Process Safety Information (“PSI”)

- **(Old Rule)** The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule.
- **(Revised)** The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and **shall keep process safety information up-to-date.**

Potential Issues with PSI Requirement

- **Generally, MOC's should keep the PSI current.**
- **“EPA is revising § 68.65(a) in order to remove irrelevant text regarding the timeframe for initial development of PSI and to more clearly demonstrate that PSI must be kept up-to-date. EPA is revising § 68.65(a) to remove the phrase “In accordance with the schedule set forth in § 68.67” and is adding the phrase: “and shall keep PSI up-to-date.” EPA expects that revising § 68.65(a) in this manner will help Program 3 facilities to better comply with PSI requirements and further clarifies the requirement that PSI must be completed prior to conducting a PHA. 82 FR 4594-01.”**
- **Was this provision really needed?**

Emergency Response Coordination

- **Owner/operator will coordinate emergency response needs with LEPC to determine how stationary source is addressed in community emergency response plan.**

- **Owner/operator will ensure that local response organizations are aware of:**
 - Regulated substances
 - Quantities
 - Risks of processes
 - Resources and capacities of stationary source to respond to accidental release

Emergency Response Coordination

- **Annual Coordination with LEPC**
 - More if necessary by changes
- **Coordination includes providing to LEPC:**
 - Emergency response plan
 - Contact information
 - Information requested information relevant to emergency response planning
 - Scheduling plans for field and table top exercises
 - Request meeting with LEPC and/or fire department as appropriate to discuss emergency response
- **Documentation**
 - Owner/operator must document coordination with local authorities

Conclusion

- **Monitor developments at OMB concerning the Reconsideration Rule**
- **RMP compliance audits must be done for “each covered process”**
- **Supervisors “with process operational responsibilities” must be trained**
- **Incident reports with expanded content completed within 12 months**
- **PHAs must address findings from incident reports and potential failure scenarios**
- **PSI must be kept “up-to-date”**
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