



# Virtual PSM/RMP Compliance and Auditing / CSB Accidental Release Reporting Rule

June 10, 2020

© Copyright 2020 by ERM Worldwide Group Limited and/or its affiliates ('ERM'). All Rights Reserved.  
No part of this work may be reproduced or transmitted in any form or by any means, without prior  
written permission of ERM.

*The business of sustainability*



## Introduction – Remote Auditing

- With the mandated COVID-19 “shelter in place” orders, virtual or remote auditing has quickly been pressed into the forefront of ongoing EHS compliance, specifically as related to the PSM/RMP rules which require audits to occur on a 3-year timeframe.
- Additionally, remote auditing is gaining traction as a viable alternative to traditional onsite auditing, especially for sites that have an overall good level of understanding and performance with respect to their EHS compliance obligations.



# Summary of EPA & OSHA Guidance on Compliance and COVID Impacts

## EPA - March 26 Memo

Provides for select “enforcement discretion”.

Entities should make every effort to comply, but if compliance is not “reasonable practical”, then should:

- Act responsibly to minimize effects of noncompliance during pandemic response
- Identify dates and nature of noncompliance
- Identify how COVID19 was the specific cause of the noncompliance
- Return to compliance as soon as possible

Furthermore, facilities should contact implementing authority if conditions present and imminent threat to human health or environment.

## OSHA – April 16, 2020 Interim Guidance

Specifically discusses restrictions that may preclude compliance with availability of employees, consultants, and contractors with compliance with training, auditing, equipment inspections, and other essential safety and IH services during pandemic.

Compliance officers will evaluate if companies made a “good faith effort” to:

- Explore all options to comply with applicable standards (i.e. virtual training, remote communications strategies, etc.)
- Implemented interim alternative measures (i.e. engineering or administrative controls)
- Rescheduled required annual activity as soon as possible

# Remote Auditing: Benefits and Limitations



Remote auditing offers some advantages, but it is important to recognize that some inherent prerequisites exist for successful implementation, and some inherent limitations exist as well.

## Advantages

- No travel needed – reduced time and cost, reduced carbon footprint
- In general shorter time for actual onsite audit
- More flexibility in accommodating availability of site personnel – less disruption to operational activities
- Allows programs to progress in situations where site access is not possible (e.g., as in current Covid scenario)
- Virtually all sites now have desktop technology that enables effective documentation transfer and review, video conferencing, etc.
- Opportunity for different subject matter experts (client or ERM) to join or lead interviews on specific topics or areas of concern for the site
- More advanced virtual technologies are evolving and becoming more cost-effective and accessible
- Opportunities for resource and cost efficiencies
- Interviews can be recorded

## Prerequisites/limitations

- Focused audit – the scope focused on a manageable number of clearly defined focus topics.
- Comprehensive data provision upfront and during the audit – time required in preparation by the site and lead auditor is likely to be greater (approximately 50 percent).
- Auditors cannot make their own observations which limits the ability to assess the reality of front line conditions, behaviors and performance vs perceived compliance on the basis of systems, procedures and records.
- Level of assurance confidence will vary depending on the topic
- Potential for connectivity disruptions

# Key Aspects

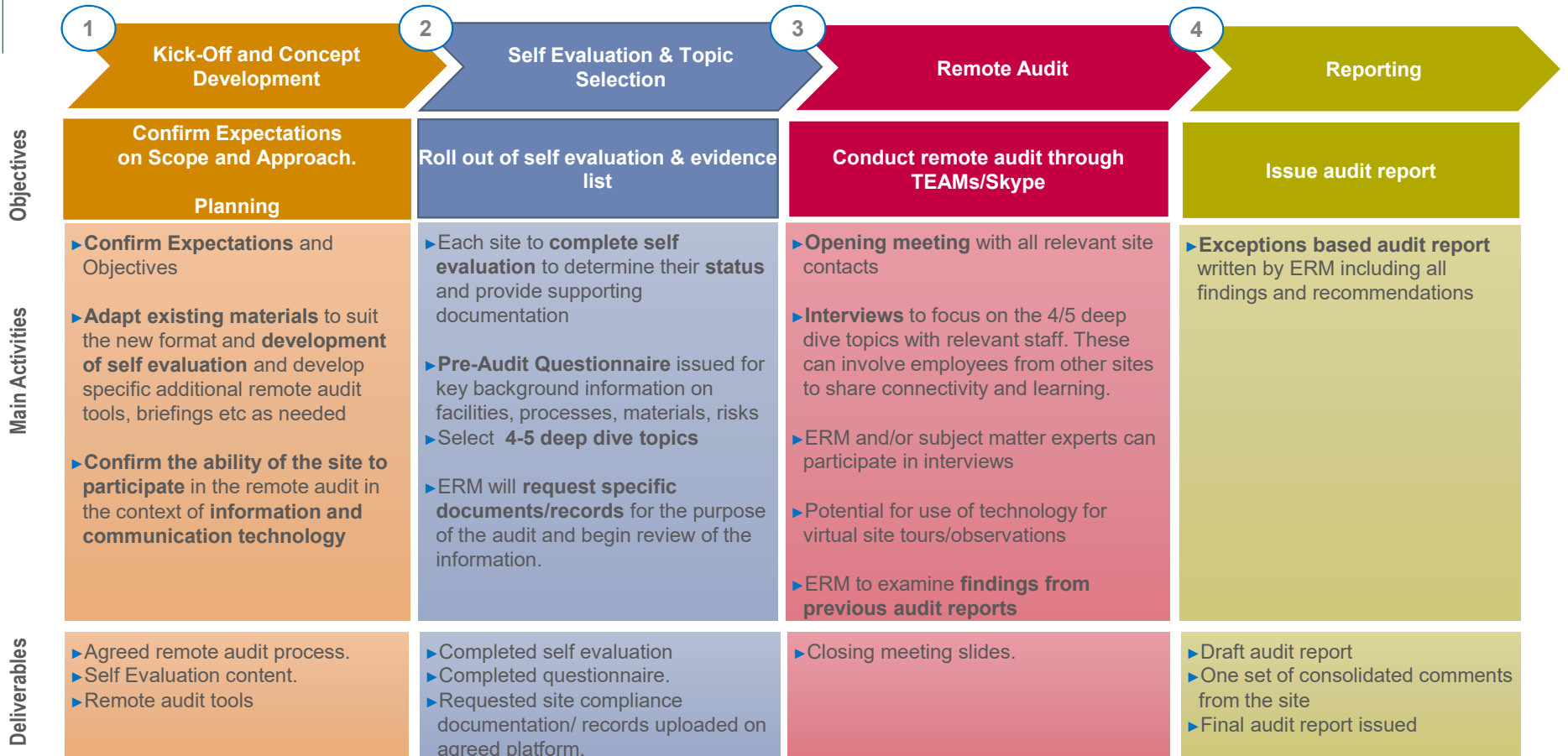


Our proposed approach is an evolution in EHS compliance assurance:

- Self-evaluation of EHS compliance status to be performed and signed off by Site Leader.
  - Provides high level or initial assurance and oversight of compliance status and:
    - Focuses leaders' ownership and accountability
    - Provides basis for the subsequent EHS compliance auditing by Corporate/ERM.
- Pre-audit questionnaire to obtain basic background information.
- Desk-based review of the information provided to determine site-specific key risk areas and focus topics
- Use of technology to complete interviews and discussions with site personnel
- Findings either presented in a separate report or directly uploaded into a digital platform
- Potential for a select number of site visits as a second stage, e.g.:
  - Based on issues/significant data gaps identified in the remote audit;
  - On a rotational basis – frequency either standard or based on classification of inherent risk



# Overall Project Approach and Schedule



# Potential Technological Enhancements to Audit Program



A key factor to ensure the long-term success of the program will be the effective leveraging of technology; this will ensure that the program is future-proofed and remains streamlined, efficient and cost effective.

ERM is currently using several technological/ digital enhancements in the arena of remote auditing that we can leverage as the program moves forward.

These include the following:

- **Use of mobile devices/ wearables** by site personnel to provide the remote audit team with visual links, which can include video site tours and reviews of specific areas (such as hazardous waste areas, tank farms, wastewater treatment plants, etc.). These can be **real time (live feed)** or pre-recorded. Factors such as confidentiality and avoidance of entering areas with explosive atmospheres would need to be duly considered
- **Use of satellite imagery** and online geospatial management tools to provide real-time site visuals (ERM has strong relationships with several major satellite companies, which allows us to develop unique and cost-effective solutions other consultancies are unable to provide).





---

## Chemical Safety Board (CSB) – Accidental Release Reporting Rule

Beginning on March 23, 2020, under the Accidental Release Reporting Rule, owners or operators of “stationary sources” must report any accidental release of a “regulated substance or other extremely hazardous substance,” which results in a fatality, serious injury, or “substantial property damage.” Such reports must be submitted to the CSB within eight hours of the release

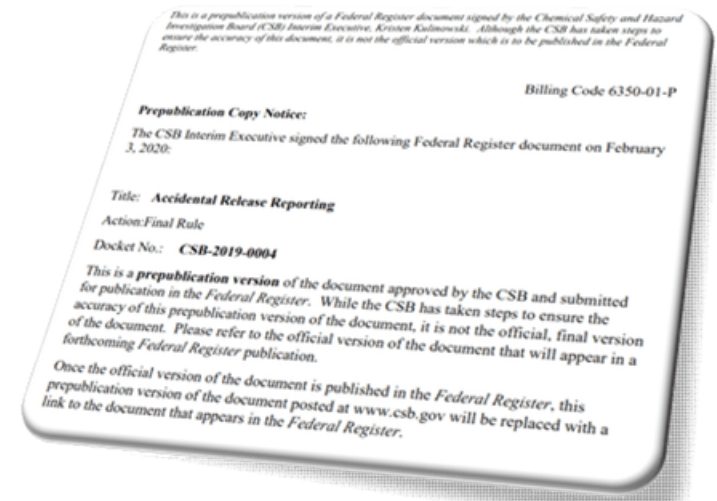




# Definitions – Accidental Release Reporting Rule

**Extremely Hazardous Substance** - “any substance that may cause death, serious injury, or substantial property damages, including but not limited to any ‘regulated substance’ at or below any threshold quantity set by the EPA Administrator.” It must be noted that despite having the exact same name, the “extremely hazardous substances” subject to the Accidental Release Reporting Rule are not the same as, or in any sense limited to, EPA’s list of “extremely hazardous substances” that are subject to EPCRA, CERCLA, or RMP.

**Serious Injury and Substantial Property Damage.** The Accidental Release Reporting Rule limits the definition of “serious injury” to “any injury or illness that results in death or inpatient hospitalization,” and defines “substantial property damage” as “estimated property damage at or outside the stationary source equal to or greater than \$1,000,000.”



# Reporting – Accidental Release Reporting Rule

## Timing

Within eight hours of an accidental release, the facility owner or operator must notify and submit a report to CSB either by email or telephone. If a facility has already reported the release to the National Response Center (NRC), pursuant to another emergency release notification scheme such as CERCLA, the facility may satisfy its CSB reporting obligation by submitting its NRC identification number to the CSB. The facility, however, must submit its NRC identification number within thirty minutes of submitting a report to the NRC

## Report Contents

- The name and contact information of the owner, operator, and person making the report.
- The facility's location information and facility identifier.
- The approximate time of the accidental release.
- A brief description of the accidental release.
- An indication of whether the release has resulted in a fire, explosion, death, serious injury, or property damage.
- The name of the material(s) involved in the release, as well as their Chemical Abstract Service (CAS) numbers.
- Estimated property damage at or outside the stationary source.
- Whether the accidental release resulted in an evacuation order impacting members of the general public.
- The amount of the release (if known).
- The number of fatalities (if known).
- The number of serious injuries (if known).
- The number and type of individuals evacuated (if known).
- The evacuation zone's approximate radius (if known).



**Thank You**

*The business of sustainability*



**Steve Hawkins, CPSA, CPEA**  
ERM  
*Partner*  
steve.hawkins@erm.com  
+1 (513) 807-7112

