



The Exciting World of EPA Regulations



**SD Industry Workshops
July 2023**



Today's updates

Clean Water Act Hazardous Substance Worst Case Discharge Rule

- Proposed Rule

Risk Management Program

- Proposed Rule Update
- Why EPA is looking at this and what to expect

Air Releases from Animal Waste at Farms



CWA HS WCD Planning Regulations

Timeline of actions

2019- EPA was sued-regulations for oil discharges to water but nothing for chemical discharges to water

March 2020-Consent Decree established

March 2022- Notice for proposed rule making

July 2022- Comment period closed

Sept 2024- Final action required



CWA HS WCD Planning Regulations

PROPOSED

Facilities would have to create a CWA hazardous substance FRP for a worst-case discharge if they could reasonably be expected to cause substantial harm to the environment based on location.

The CWA HS FRP needs to:

- describe the training, equipment testing, periodic unannounced drills, and response actions of persons at the facility;
- review and update facility response plan periodically and resubmit for approval of each significant change.

Proposed applicability requirements

First two substantial harm criteria:

- Maximum (aggregate) container capacity onsite (present at all locations within the entire facility at any one time) **meets or exceeds 10,000 times its CERCLA Reportable Quantity**

(Ex: Potassium Bichromate CERCLA RQ=10 lbs under proposed rule 100,000 lbs)

- The facility is **within 1/2 mile of navigable waters**



CWA HS WCD Planning Regulations

And meets one or more substantial harm criteria:

- Ability to adversely impact PWS
- Cause injury to fish, wildlife, sensitive environments
- Injury to public receptors
- Reportable discharge of CWA Haz Sub w/5 years.

Facility owner or operator must determine if the facility meets at least one substantial harm criterion



CWA HS WCD Planning Regulations

So what now?

EPA HQ is looking to submit the final version late summer to OMB with the hopes of publishing by the end of 2023.

By consent decree, final decision is made by September 2024.



RMP updates

Under EO13990-EPA is reviewing RMP regulation revisions completed since 2017 (including the 2017 Amendments and 2019 Reconsideration)

SCCAP-The Safer Communities by Chemical Accident Prevention rule looks at improvements to RMP to better address impacts of climate change on facility safety and protect communities living near RMP facilities





RMP-Risk Management Plans

- Covers facilities with one or more of the 140 regulated substances above threshold quantities
- Requires facilities to:
 - Implement an accident prevention program
 - Implement an emergency response program
 - Conduct a hazard assessment
 - Submit a summary report “RMP” to EPA
- RMPs available to government, limited public access



RMP-Program Levels

Dependent on risk:

- Program 1
 - No public receptors in worst case scenario zone
 - No accidents w/offsite impacts in last 5 years
- Program 2
 - Facilities not in Program 1 or Program 3
- Program 3
 - Not eligible for Program 1
 - Already covered by OSHA PSM standard, or
 - Process in 1 of 10 specified NAICS codes



RMP's-Owner/Operator Requirements

1) Conduct Hazard Assessment (P1, P2, P3)

2) Develop and Implement an Accident Prevention Program (P2, P3)

3) Implement Emergency Response Program (P2, P3)

4) Develop Management System (P2, P3)

5) Submit Risk Management Plan to EPA (P1, P2, P3)



SCCAP proposed rule

Changes under the Accident Prevention Program:

- Natural Hazards and Power Loss
- Facility Siting
- Safer Technologies and Alternatives Analysis
 - For facilities w/in 1 mile of another RMP facility that are both chemical manufacturing or refining
 - Facilities with HF processes
- Root Cause Analysis
 - If have RMP reportable releases
- Third-Party Compliance Audits
 - If have RMP reportable releases
- Employee Participation
 - Empower employee recommendations



SCCAP proposed rule

Changes under the Emergency Response:

- Community Notification of RMP accidents
 - Procedures to inform public and responders
- Emergency Response Exercises

Changes under the Information Availability:

- Enhanced Information Availability-public who lives w/in 6 miles can request hazard info.

Other areas of technical clarification to be addressed.



SCCAP Proposed Rule

For more information on the SCCAP rule go to the following:

<https://www.epa.gov/rmp/risk-management-program-safer-communities-chemical-accident-prevention-proposed-rule>

More information to follow



RMP-where are we at now?

Currently operating under the RMP
Reconsideration of 2019

Are you a responding or non-responding
facility?

- Responding facilities develop ERP testing, training for employees
- Non-responding only annual notification exercises-no field or TTX



Current RMP status

Compliance Dates: [December 2019 Final Rule Effective Date]

What	Due Date
Public Meetings	Within 90 days of any qualifying accident that occurs after March 15, 2021
Develop Emergency Response Programs	Within three years of owner or operator determining that facility is subject to the provisions
Develop exercise plans and schedules	December 2023
Conduct first notification drill	December 2024
Conduct first tabletop exercise	December 2026
Conduct first field exercise	According to the exercise schedule established by the owner or operator in coordination with local response agencies
Submit RMP with new information elements	The owner or operator would provide new information elements with any initial RMP or RMP resubmission made after December 2024.
Comply with new emergency coordination requirements	Already in effect as of September 21, 2018
Comply with remaining minor accident prevention provisions	Already in effect as of September 21, 2018



Air Releases from Animal Waste at Farms

Feb 2022- DC court granted motion to remand without vacatur

- EPCRA exemption will remain in place while EPA undergoes a new notice and comment rulemaking to revise or rescind.

More information to follow!

What are your take homes today?

✓ **PLAN AND PREPARE**

Are you working with your LEPC or local responders?
Have you trained together?

✓ **RESPOND EFFECTIVELY**

Do you have the tools and necessary knowledge?

✓ **PREVENT THE ACCIDENT**

Educate your workforce

Emergency planning also begins with you!





Spill Notifications & Requesting EPA

- Contact EPA via the National Response Center: **1-800-424-8802**
 - One-stop call for assistance and spill reporting
 - Caller may request to speak directly to an OSC
 - EPA OSCs are available 24/7/365
- File an NRC report online: **www.nrc.uscg.mil**
- Contact Region 8 Duty OSC: **303-293-1788**



Questions?

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