



Changes to the Chemical Accident Prevention Rule (Risk Management Program) in 2004

The Environmental Protection Agency (EPA) recently published revisions to the reporting requirements of the Chemical Accident Prevention Rule under Clean Air Act section 112(r). Under the rule, covered facilities must submit risk management plans (RMPs) to EPA describing their chemical accident prevention programs. The revised rule removes the requirement for facilities to describe their offsite consequence analysis (OCA) in the executive summary of RMPs, adds several new data elements to RMPs, and requires more timely reporting of significant accidents and changes in emergency contact information. This *factsheet* provides a summary of these changes. It is important that owners, operators, plant managers, and others responsible for RMP implementation review this information.

BACKGROUND

Section 112(r) of the Clean Air Act (CAA) requires EPA to promulgate regulations for the prevention and mitigation of accidental releases of extremely hazardous substances. Under this section, EPA established a list of regulated substances and thresholds and issued the Chemical Accident Prevention regulations. The goals of this program are to prevent accidental releases of chemicals that could cause serious harm to human health or the environment and to reduce the severity of releases that may occur. Covered facilities are required to develop and implement a risk management program that includes a five-year accident history, an offsite consequence analysis, an accident prevention program, and an emergency response program. Companies must also submit to EPA a risk management plan (RMP) describing the source's risk management program. The original deadline for submitting RMPs was June 21, 1999. Since then, approximately 15,000 RMPs have been submitted.

The chemical accident prevention regulations also require full updates and resubmissions of RMPs at least once every five years. Certain process and

other changes as specified in the *Update* section of the Chemical Accident Prevention regulation (40 CFR 68.190) may require a facility to fully update and resubmit its RMP prior to the five-year anniversary of an RMP. The five-year anniversary date is reset whenever companies fully update and resubmit their RMPs.

Most facilities submitted their initial RMPs by the original June 21, 1999 deadline and have not resubmitted their RMPs since. Therefore, the majority of facilities will need to fully update and resubmit their RMPs to EPA by June 21, 2004.

All facilities are required to include the new data elements in their RMPs by June 21, 2004, whether they are filing an updated RMP by that date or not. Facilities filing a fully updated RMP by June 21, 2004 will be able to add the new information as part of their update. Facilities not filing a full update by that date will add the information to their RMPs through a correction.

This factsheet provides additional information about the reporting deadlines and the recent changes to the RMP reporting requirements.

OVERVIEW OF CHANGES TO RMP REPORTING

EPA recently amended the Chemical Accident Prevention rule to:

- (1) Require that information on reportable chemical accidents be added to the RMP within six months of the date of the accident;
- (2) Require that changes to emergency contact information be reported within one month;
- (3) Remove the requirement to include a brief description of the off-site consequence analysis (OCA) in the RMP executive summary; and
- (4) Add three RMP data elements.

EPA also amended the RMP*Submit format to expand the list of possible accident causes to include uncontrolled chemical reactions.

As part of this rulemaking, EPA also clarified that the five-year deadline for updating RMPs that were originally filed early (i.e., submitted *before* June 21, 1999), is June 21, 2004. Facilities that filed early may have received correspondence indicating an earlier due date. However, EPA's interpretation of the regulations is that RMPs initially due on June 21, 1999 must be updated by June 21, 2004, not before.

This clarification does not affect the five-year anniversary for facilities that updated their RMPs as a result of any process or other changes, as required under the *Updates* section of the regulation (40 CFR 68.190). For companies that submitted their initial RMPs *after* June 21, 1999, or have resubmitted since their initial submission, the five-year anniversary date is calculated as five years from the postmark date of their latest submission.

The following sections discuss the recent changes to RMP reporting in more detail.

More Timely Accident Reporting

Previously, facilities that had an accident meeting the criteria for inclusion in the five-year accident history section of their RMPs (section 6) could wait until they updated their RMPs to include information about that accident. Since RMPs may be updated as infrequently as every five years, EPA now requires facilities that have a reportable accident to revise section 6 of their RMPs to include information about the accident within six months of the accident's occurrence. Facilities reporting under Programs 2 and 3 must also revise the incident investigation information in their RMPs (reported as part of their Prevention Program

Information, section 7 or 8 of the RMP). Specifically, these facilities must revise: (1) the date of investigation (40 CFR 68.170(j)) to reflect the date of the investigation of the accident being included in the five-year history; and (2) the expected date of completion of any changes due to that accident investigation (40 CFR 68.175(l)), and submit a corrected RMP within six months of the date of the accident.

The criteria for determining which accidents must be included in the five-year accident history are found at 40 CFR 68.42. Guidance on the criteria and the reportable data elements for the five-year accident history are found in the *General Risk Management Program Guidance*, available on our website at: (<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/EPAGuidance.htm>).

Emergency Contact Information Corrections

In order to ensure that the emergency contact information is reasonably current, facilities are required to correct their RMPs to reflect any change in their emergency contact information within one month of the change.

Description of OCA No Longer Required in Executive Summary

Facilities subject to the Chemical Accident Prevention Rule are required to conduct an analysis of the potential off-site consequences of hypothetical worst-case and alternative accidental releases. Under the original rule, facilities were required to include a brief description of this analysis in the executive summary of their RMPs. EPA and federal law enforcement agencies have become concerned that OCA descriptions in executive summaries may pose a security risk, so EPA has revised the rule to remove this requirement. In view of security concerns, EPA expects that facilities will not include any OCA data in their executive summaries.

New Data Elements

In addition to those data elements already required in the RMP, facilities must now also include:

- The emergency contact e-mail address (if an e-mail address exists);
- The purpose and type of any submission that revises or otherwise affects previously filed RMPs; and
- The name, address, and telephone number of the contractor/consultant who prepared the RMP (if any).

RMP*Submit Format Revision for Recording Accident Causes

In RMP*Submit 2004, facilities will be able to indicate, as part of their five-year accident history, if an accident involved an uncontrolled or runaway reaction. This new option was added in response to renewed concerns over these types of incidents.

REPORTING DEADLINES

The five-year deadline for updating RMPs that were submitted before or on June 21, 1999, is June 21, 2004. Most facilities submitted their initial RMPs by the original June 21, 1999 deadline and have not resubmitted their RMPs since. Therefore, the majority of facilities will need to fully update and resubmit their RMPs to EPA by June 21, 2004. Facilities that have updated their RMPs as a result of any of the changes specified in 40 CFR 68.190 will have a different anniversary date.

All facilities are required to include the new data elements in their RMPs by June 21, 2004, whether they are filing an updated RMP by that date or not. For facilities filing an updated RMP (also referred to as a resubmission) by June 21, 2004, they will be able to add the new information as part of their update. For resubmissions, facilities will continue to be required to submit their updated RMPs on diskettes/CDs with certification letters.

For facilities not filing a full update by that date, they will be able to add the new data elements to their RMPs using a new Internet-based tool that EPA is developing. This tool will allow facilities to make revisions and other small changes to the administrative sections of the RMP on-line, eliminating the need to mail diskettes and certification letters for such corrections. This tool will not allow corrections of the executive summary entry within the administrative sections of the RMP, or of any other data element outside the administrative sections of the RMP. For any needed changes to those sections, facilities will continue to be required to submit their corrections on diskettes/CDs with certification letters.

Companies should note that the rule revision removes the requirement to include a brief description of OCA in the executive summary. Effective as of April 9, 2004 OCA data is no longer required in the executive summary.

April 9, 2004 is also the start date for the new accident reporting requirement. Any reportable accident occurring on or after April 9, 2004 must be included in the five-year accident history section of the RMP within six months of the accident.

WHAT'S NEXT?

We anticipate that the new version of RMP*Submit (known as RMP*Submit 2004) will be released shortly. In addition, we expect that the internet-based tool for correcting the administrative sections of the RMPs on-line (known as RMP Web Registration Correction) will be available in May 2004.

For up-to-date information on the status of these and other products associated with the RMP program, visit our "What's New" page. We plan to update this information on the first of each month to reflect new developments and product status.

Visit our "What's Next" page:

<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/whatsnext.htm>

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