



## EPA Strengthens Risk Planning and Management Requirements for Industry

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On March 1, EPA released updated stringent [accident prevention and management requirements](#) for refineries, chemical producers, agricultural distributors, and other highly regulated industries. Among other requirements, the Risk Management Program (RMP) final rule includes a new mandate that a broader list of facilities is now required to perform a “safer technology alternatives analysis” (STAA). Facilities must comply with these new requirements three years after the final rule takes legal effect (60 days once the rule is published in the Federal Register).

### Applicability

Consistent with EPA’s proposal in 2022, the Agency is adding new requirements to prevent the release of certain regulated hazardous chemicals stored by facilities at levels exceeding threshold quantities. The RMP program requires facilities to assess potential release impacts, take steps to prevent releases, plan for emergency response to releases, and summarize the information in plans submitted to EPA.

Facilities impacted include the following: agricultural chemical distributors; chemical manufacturers and wholesalers; food and beverage manufacturing; oil and gas extraction; paper manufacturing; petroleum and coal products manufacturing; electric generation facilities; wastewater managers; and warehousing and storage. EPA established that 11,740 facilities are covered by the newly updated regulation.

### New Requirements

Along with expanding the list of “accident-prone” facilities required to undertake a safer technology alternatives analysis, the final RMP rule adds a requirement for these same facilities to implement at least one “practicable passive measure or similarly protective active or procedural measure(s)” after each STAA. During a press briefing held on February 29, 2024, EPA noted the additional requirement as the most prominent change from the 2022 proposed rule, stating that facilities must not only develop an accident plan but also implement practicable safeguards to help prevent or mitigate chemical releases.

EPA also is adding the following two other major steps to facilities’ risk management procedures: (1) a requirement for facilities to evaluate risks of natural hazards and climate change; and (2) a requirement to increase the public availability of chemical hazard information for “fence line” communities. These requirements were key elements of the 2022 proposed RMP rule, which aimed to reinstate provisions EPA added to the RMP under the Obama administration. Both requirements follow EPA’s latest [national enforcement initiatives for fiscal years 2024-2027](#).

The final RMP rule also requires third-party audits for some regulated sites and formal root cause analysis incident investigation following RMP-reportable accidents. Other new requirements include mandated employee training and participation in facility accident prevention planning; enhanced emergency response requirements; and revisions to improve chemical process safety to assist in planning, preparing for, and responding to accidents, and increase public awareness of chemical hazards at regulated facilities.

### Timing and Next Steps

The final rule imposes different compliance deadlines depending on the requirement. EPA is requiring regulated sources to comply with the following requirements within three years after the effective date of the final rule: new requirements for the STAA; incident investigation root cause analysis; third-party compliance audit; employee participation; emergency response public notification; exercise evaluation reports; and information availability provisions. Compliance with revised emergency field exercise frequency provisions is required by March 15, 2027, or within 10 years of the date of an emergency response field exercise conducted between March 15, 2017 and August 31, 2022. Updates and resubmission of risk management plans with new and revised data elements are required four years after the final rule's effective date.

Some of these new features of the RMP rule have been strongly opposed by various stakeholder groups. Their opposition increases the likelihood that court challenges will be brought against the final RMP rule.

While the final RMP rule was signed by EPA Administrator Regan on February 27, 2024, it has yet to be published in the Federal Register. Once published, the rule will take effect after 60 days. Some EPA rules have seen significant delays in the time between signature and eventual publication.

### For More Information

Van Ness Feldman closely monitors and advises clients on EPA priorities, rules, and actions and their implications for regulated industries. For additional information, please contact [Britt Fleming](#), [Stephen Fotis](#), [A.J. Singletary](#), or any member of the firm's [Environmental Practice](#) in Washington, D.C. at (202) 298-1800.

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