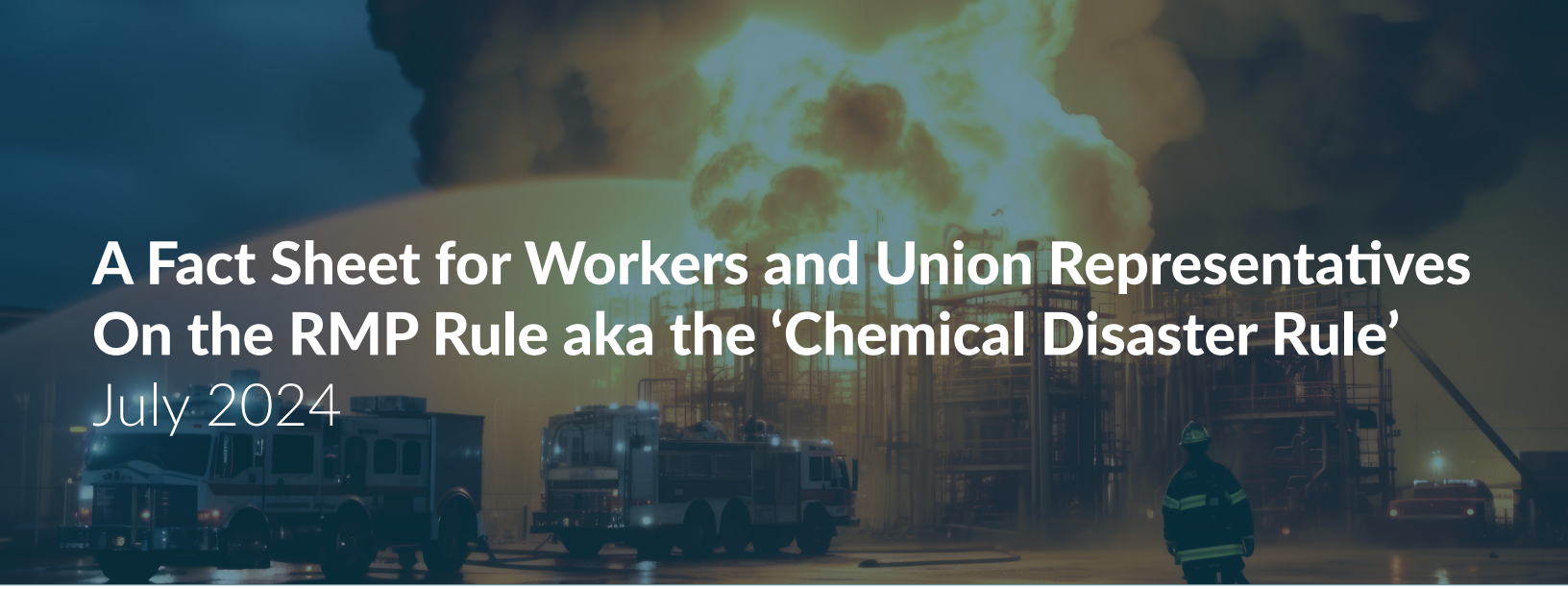


A Fact Sheet for Workers and Union Representatives On the RMP Rule aka the 'Chemical Disaster Rule'

July 2024

BACKGROUND:

The U.S. Environmental Protection Agency's (EPA) rule on the Risk Management Program (RMP) requires facilities that use large amounts of specified extremely hazardous substances to develop a RMP plan to prevent releases and to establish emergency response procedures.[1, 2] These plans must be revised and resubmitted to the EPA at minimum every five years. Past weakening of the RMP Rule left workers and communities vulnerable to chemical disasters—toxic releases, fires, and explosions. In March 2024, Biden's EPA issued an updated RMP rule to strengthen protections.

TYPES OF RMP FACILITIES:

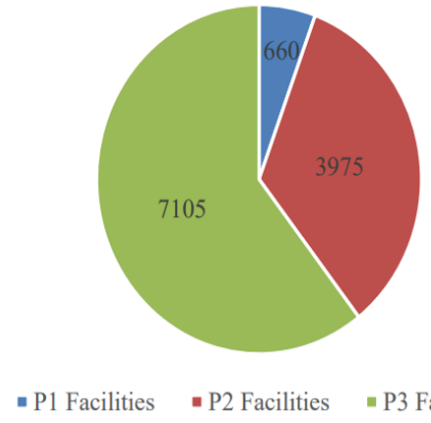
The EPA's RMP rule regulates approximately 12,000 industrial RMP facilities, including oil refineries, chemical plants, paper mills, wastewater and water treatment facilities, etc. that use or store above specified amounts of highly toxic or highly flammable chemicals.

- Use the EPA's Risk Management and Public Data Tool to find out if your facility is regulated by the RMP.[3]

The EPA categorizes RMP facilities into three program levels, each with different requirements based on the threat they may pose to the community and the environment. In certain cases, a facility or process may change in category if the type or volume of chemicals used changes. The majority of RMP facilities are categorized as program 3 (see graph below) which poses the highest threat to people and the environment. **Note:** some RMP sites have processes in more than one program level.

	Category
Program 1	Facilities that would not affect the public in a worst-case release.
Program 2	Processes not eligible under program 1 or 3.
Program 3	A process subject to OSHA's Process Safety Management (PSM).

Exhibit 3-3: Number of Facilities by Program Level.



EPA, Regulatory Impact Analysis. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0093

WHAT'S IN THE RULE?

Below are the top five provisions of the rule that are particularly relevant to keeping workers safe. These provisions go into effect May 10, 2027.

1. **Employee Participation Plan**: Employee participation plans allow for worker voices to be heard when it comes to addressing safety and health concerns.
   - Consult with employees on conducting safety reviews: RMP facilities are required to consult with employees and their representatives on developing and conducting process hazards analyses and on the development of the other elements of process safety management.
   - Consult with employees on addressing safety concerns: RMP Program 3 facilities are also required to consult with employees that are knowledgeable in the process and their representatives for addressing, correcting, resolving, documenting, and implementing recommendations and findings for the following:
     - » Process Hazard Analyses (see glossary of terms for definitions);
     - » Compliance Audits; and
     - » Incident Investigations.
   - Written plans required: RMP facilities are required to develop a written plan of action regarding the implementation of the employee participation requirements (referenced above).
     - » Training required: Employers are also required to provide training on the RMP employee participation plan in Program 2 and 3 facilities/processes.
       - › Training shall be provided as often as necessary.
     - » Annual notice required: Employers must provide annual (written or electronic) notice of the employee participation plan and how to access it for Program 2 and 3 facilities/processes.

2. **Safer Technology and Alternatives Analysis (STAA)**: STAA is a hazard reduction strategy that aims to make facilities and their chemical processes as safe as possible by minimizing the use of regulated substances, using less hazardous substances, moderating process conditions, and simplifying processes to prevent accidental releases. When findings of an STAA are implemented, workers are safer.
   - Certain facilities required to conduct STAA: Approximately 1,400 oil refineries and chemical facilities will be required to conduct an STAA if they are:
     - » Facilities with NAICS code 324 and 325 plus one other criteria:
       - › Within one mile of another RMP facility with NAICS code 324, 325;
       - › Has hydrofluoric acid processes (i.e. many refineries); or
       - › Has had an accident in the last five years.
   - Implementing STAA findings: Of these, 620 facilities will also be required to conduct a practicability assessment to see what they can feasibly implement from the STAA.

3. **Stop Work Authority**: For the first time, the RMP rule grants workers stop work authority under certain conditions.
   - Stop work authority granted for certain employees and union representatives at Program 3 facilities/processes.
     - » Covers employees and their representatives that are "knowledgeable in the process."
       - › Can recommend to the operator in charge of a unit partial or complete shutdown of an operation or process based on the potential for a catastrophic release in a Program 3 facility/process.
       - › A qualified operator in charge of a unit can partially or completely shut down an operation or process based on the potential for a catastrophic release in a Program 3 facility/process.

4. **Anonymous Reporting**: Anonymous reporting allows workers to report to EPA or the employer if there are unaddressed safety hazards.
    - The owner/operator of a Program 2 or 3 facility is responsible for implementing a process to allow employees and their representatives to anonymously report specific unaddressed hazards.
        - » Reporting can be to EPA and/or the owner/operator;
        - » Workers and their representatives can choose to report anonymously; and
        - » When a report is made, the owner/operator must keep a record of it for three years.

5. **Right-to-Know:** Employees and their representatives have a right to access RMP facility information including process hazard analyses and to all other information required to be developed under the RMP Rule directly from the employer.

OTHER WAYS TO GET RMP INFORMATION ARE AS FOLLOWS:

1. **Online**: The Risk Management Public Data Tool enables the public to search RMP information by facility name, company, industry type, chemical, city, county, state, etc., and view the results as a list or map.
    - » Type of information available:
        - › Facility information including Program level (i.e. 1, 2, or 3);
        - › RMP chemicals used;
        - › Accidents reported in the last five years;
        - › Complete accident history for the facility;
        - › Emergency response plan contact info; and
        - › Safety Data Sheets.

2. **Six-mile radius**: Additional RMP information is accessible from facility management to people living, working or spending significant time within a six-mile radius of an RMP facility. Type of information available varies by program level:
    - » Names of Regulated substances;
    - » Safety Data Sheets;
    - » Detailed five-year accident history;
    - » Emergency response protocol;
    - » List of scheduled emergency exercises;
    - » Contact information for Local Emergency Planning Committee;
    - » Inherently safer design measures implemented since last Process Hazard Analysis (program level 3);
    - » Employer justifications for declining recommendations from:
        - › natural hazard, power loss, and siting hazard evaluations (program 2 or 3); and
        - › any safety gaps between facility design and current codes, standards, and practices (program 3).

3. **In-person Reading Rooms**: RMP information may be accessed in person via the Federal Reading Rooms which are open to the public to review RMP information.[4]
    - » Information available includes Off-Site Consequence Analysis (including worst-case scenarios) portions of RMPs, limited to 10 facilities per month anywhere in the country and all RMP facilities in your local emergency planning area. RMP information without Off-Site Consequence Analysis is available on request.
    - » Usually 1-2 reading rooms per state.

4. **FOIA Request**: The Freedom of Information Act is a law that allows any person access to federal agency records. All agencies, including the EPA, have the duty to release records to the public. Some RMP information is available through a FOIA request process which can be made through FOIAonline.[5] Federal agencies are generally required to respond to a FOIA request within 20 business days. Note: in reality, many FOIA requests take longer than that. Before submitting a FOIA request, check the Data Liberation Project site which regularly posts all portions of RMPs that are available through FOIA (this does not include off-site consequences analyses).[6]

GLOSSARY OF TERMS

Catastrophic release means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

Compliance Audits are conducted at least every three years (sooner if there is an accidental release) to evaluate a facility's documentation and record keeping to ensure they meet EPA regulations.

Five-year accident history includes all accidental releases from covered processes that resulted in deaths, injuries, or significant property damage on site, or known offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage that occurred in the last five years.

Incident Investigations must be conducted no later than 48 hours after an incident which resulted in, or could reasonably have resulted in a catastrophic release that documents factors contributing to the incident and recommendations.

Offsite Consequence Analysis: Identifies potential consequences of an accidental chemical release. The offsite consequence analysis consists of two elements: A worst-case release scenario, and alternative release scenarios.

Process Hazard Analyses are a rigorous step-by-step examination of processes, process equipment and controls, and procedures to identify each point at which a mishap may occur (e.g., a valve failing, a gauge malfunctioning, human error) and examines the possible consequences of the mishap (58 FR 54196; October 20, 1993).

Safer Technology and Alternatives Analyses are best practice for RMP facilities. They identify if there are safer technologies, techniques, or chemicals that can be used to lower the danger of a catastrophic release. With the new rule, approximately 12% of facilities (includes refineries using hydrofluoric acid; chemical manufacturing; oil refining) are required to conduct an STAA (but not required to implement recommendations).

Credit: U.S. Chemical Safety and Hazardous Investigation Board

ENDNOTES

1 Environmental Protection Agency (EPA), Risk Management Program (RMP) Rule. https://www.epa.gov/rmp
2 EPA, List of Regulated Substances under the RMP. https://www.epa.gov/rmp/list-regulated-substances-under-risk-management-program
3 EPA, Risk Management Program. https://cdxapps.epa.gov/olem-rmp-pds/
4 EPA, Federal Reading Rooms for RMP. https://www.epa.gov/rmp/federal-reading-rooms-risk-management-plans-rmp
5 FOIA.gov, Freedom of Information Act. https://www.foia.gov/
6 Data Liberation Project, EPA RMP Spreadsheets. https://docs.google.com/spreadsheets/d/170UIeg_sweeqGWVQrjHWY-HNRqEPE9axbEroSEr4C3M/edit?usp=sharing