PROCESS SAFETY AND LESSONS LEARNED

The U.S. Environmental Protection Agency issues 'Final Rule' for United States-based cold storage facilities that could cause chemical leaks or other hazards in the event of an accident.

By Lowell Randel

The U. S. Environmental Protection Agency (EPA) has published the Safer Communities by Chemical Accident Prevention Final Rule that makes changes to the agency's Risk Management Program (RMP). The move on March 11 is the latest in a series of rulemakings related to RMP over the last 10 years and reinstates several requirements similar to those mandated by the Obama Administration and later rescinded by the Trump Administration.

The Biden Administration believes the final rule will help further protect human health and the environment from chemical hazards through advancement of process safety based on lessons learned. The RMP changes seek to improve chemical process safety; assist in planning, preparedness and response to RMP-reportable accidents; and improve public awareness of chemical hazards at regulated sources. Many of the changes return to policies enacted during the Obama Administration, but there are also new provisions that address Biden priorities related to climate change and environmental justice.

Here is a summary of major provisions included in the Final Rule:

Natural hazards and power loss: Related to climate change, the Final Rule adds amplifying regulatory text to emphasize that natural hazards (including those that result from climate change) and loss of power are among the hazards that must be addressed in Program 2 hazard reviews and Program 3 process hazard analyses. The rule also requires back-up power for release monitoring equipment.

Facility siting: In the rule, EPA expresses concern that disadvantaged populations are disproportionately exposed to RMP-regulated facilities. To address this concern, the rule emphasizes that facility siting should be addressed in hazard reviews and explicitly define the facility siting requirement for Pro-

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gram 2 hazard reviews and Program 3 process hazard analyses. Facilities must provide a justification in the Risk Management Plan when facility siting hazard recommendations are not adopted.

Third-party compliance audits: Third-party audits have been a major topic in recent RMP rulemakings. Under this rule, when a facility experiences an RMP reportable accident, its next scheduled compliance audit must be a third-party audit. Third-party audits must meet independence and competence requirements. A third-party audit can also be triggered when an implementing agency (EPA or a state equivalent) requires a third-party audit due to conditions at the stationary source that could lead to an accidental release of a regulated substance, or when a previous third-party audit failed to meet the competency or independence criteria. If an implementing agency makes a preliminary determination that a third-party audit is necessary, written notice will be provided to the facility, and there is an appeals process to challenge the determination.

Root cause analysis: Requires a formal root cause analysis incident investigation when facilities have had an RMP-reportable accident. Report shall be completed within 12 months of the incident and include factors that contributed to the incident including the initiating event, direct and indirect contributing factors and root causes.

Employee participation: Requires employee participation in resolving process hazard analyses, compliance audit and incident investigation recommendations and findings. Outlines stop-work procedures in Program 3 employee participation plans. Requires Program 2 and Program 3 employee participation plans to include opportunities for employees to anonymously report RMP-reportable accidents or other related RMP non-compliance issues. Requires training on employee participation plans.

Community notification of RMP accidents: Requires nonresponding RMP facilities to develop procedures for informing the public about accidental releases. Requires release notification data be provided to local responders. Also requires partnering with local responders to ensure a community notification system is in place for notification of RMP-reportable accidents.

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Emergency response exercises: Requires a 10-year frequency for field exercises unless local responders indicate that frequency is infeasible. Requires mandatory scope and reporting requirements for emergency response exercises.

Enhanced Information Availability: New requirements for the facility to provide chemical hazard information upon request to the public living, working or spending significant time within six miles of the facility, in at least two common languages in the community. Under the previous regulation, facilities were not required to provide this information.

Safer technologies and alternatives analysis: Safer technologies requirements apply only to chemical and petroleum manufacturers (NAICS 324 and 325). Requires an STAA evaluation for all Program 3 processes. Facility must conduct a practicability assessment of inherently safer technologies and designs (IST/ISD) considered for processes (a) in Program 3 NAICS code 324 and 325 within one mile of another Program 3 NAICS code 324 or 325 process, (b) with hydrofluoric acid alkylation processes classified under NAICS 324, (c) having one RMP accident since the facility's most recent process hazard analysis. Requires the implementation of at least one passive measure at the facility, or IST/ISD, or a combination of active and procedural measures equivalent to or greater than the risk reduction of a passive measure for the same facilities required to conduct the practicability assessment.

Other Provisions/Clarifications:

- Program 3 process safety information should be kept up to date
- Program 2 and Program 3 requirements consistent for recognized and generally accepted good engineering practices (RAGAGEP)
- Hot work permits should be retained for three years
- RAGAGEP should be reviewed in process hazard analyses to determine gaps in safety.

Compliance Dates

The compliance date for most provisions, including: STAA, incident investigation root cause analysis, third-party compliance audit, employee participation, emergency response public notification, exercise evaluation reports and information availability provisions, is three years after the effective date of May 10, 2024. The compliance date for revised emergency response field exercise frequency provision is 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, four years after the effective date of the final rule.

GCCA encourages members with RMP-regulated facilities to familiarize themselves with the Final Rule and prepare for compliance with the new provisions. Please contact Lowell Randel (lrandel@gcca.org) if you have questions or would like additional information about the Final Rule.

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