

EPA Proposes Revisions To Accidental Release Prevention Requirements-Checklist

Efforts to prevent and respond to chemical disasters are undergoing their first thorough review since many were created decades ago after December 1984's catastrophe in Bhopal, India. President Obama triggered these reviews in August 2013, when he issued an Executive Order directing federal regulatory agencies to review specified regulatory programs that are designed to prevent such disasters: Occupational Safety and Health Administration's (OSHA) Chemical Process Safety Management Standard (PSM); Environmental Protection Agency's (EPA) Accidental Release Prevention (ARP) program and Emergency Planning and Right-to-Know Act (EPCRA) program; and Department of Homeland Security's (DHS) Chemical Facility Anti-Terrorism Standards (CFATS) program (I blogged about the EO [here](#), OSHA's consideration of PSM changes [here](#), EPA's call for comments on possible ARP revisions [here](#), one of the agencies' joint reports [here](#), and about subsequent revisions to CFATS [here](#) and [here](#)). On February 25, 2016 EPA proposed ARP revisions, which I describe below.

What Are Existing ARP Program Requirements?

The 1990 Clean Air Act (CAA) amendments (Section 112(r)), directed EPA to create a program to prevent accidental releases of air contaminants that might produce catastrophic offsite consequences. EPA issued regulations in 1996. The statute and regulations have received limited revisions in intervening years. Detailed requirements:

- Specify regulated substances, including 77 toxics and 63 flammables. Each substance has one or more threshold quantities that trigger compliance responsibilities (some have multiple quantities that depend on the physical state).
- Regulate stationary sources (borrowing the general CAA term) of those substances, based on an interconnected process with a threshold quantity of one or more regulated substances. EPA assigns them to risk-based "programs" – Program 1 contains demonstrably low-risk sources, Program 3 are sources in industrial categories generally deemed high risk, and Program 2 sources are those not in 1 or 3.
- Define a risk management plan (RMP) with the following elements:
 - Offsite consequence analysis (OCA), modeling exposures from a "worst-case release scenario" (complete release of largest container). Program 2 and 3 facilities must also analyze "alternative release scenarios" that could exceed an exposure endpoint.
 - Five-year accident history and description of post-accident enhancements.

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- Prevention program (for sources in Programs 2 and 3), based on a detailed hazard review, with written operating procedures, maintenance and internal compliance procedures, post-incident investigation procedures, and training for all relevant employees.
- Emergency response program including procedures for notification and response, and training for relevant employees.
- Certification of the truth and accuracy of submitted information.
- Regulated sources are responsible for periodic and event-related updates.

What Changes is EPA Proposing?

EPA is proposing multiple changes. Some borrow from PSM and CFATS, while others have surfaced through the many reviews following President Obama's Executive Order and other federal and state initiatives. These include:

- Make administration changes:
 - Clarify or simplify the RMP submission, to remove some elements EPA considers more appropriate to site-specific inspections or information requests
 - Make various technical corrections
- Expand public information:
 - Require all facilities to provide basic information to the public through easily accessible means such as a facility website or public library.
 - Require Program 2 and 3 facilities to respond to request from Local Emergency Planning Committee (LEPC), Tribal Emergency Planning Committee (TEPC) or other local emergency response agencies with summaries of compliance audits; emergency response exercises; accident history and investigation reports (if any RMP reportable accidents); and any ISTs implemented.
 - Require all facilities to hold a public meeting for the local community after an RMP reportable accident.



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- Enhance emergency response requirements for Program 2 and 3 facilities:
 - Require annual coordination with local emergency response agencies, to ensure that resources and capabilities are in place to respond to an accidental release.
 - Require annual notification exercise to ensure that emergency contact information is accurate and complete.
 - Conduct a full field exercise at least once every five years and an annual tabletop exercise in the other years.
- Enhance hazard review:
 - Require root cause analysis as part of an incident investigation of a catastrophic release or near-miss in Program 2 or 3 processes.
 - Require independent third-party compliance audit after a reportable release from a Program 2 or 3 process.
 - Enhance every-five-year process hazard analyses by Program 3 in North American Industrial Classification System (NAICS) codes 322 (paper manufacturing), 324 (petroleum and coal products manufacturing), and 325 (chemical manufacturing) to include safer technology and alternatives analysis (STAA), and to evaluate the feasibility of any inherently safer technology (IST) identified.
- Proposing to phase in these new/revised requirements as follows:
 - One year - comply with emergency response coordination activities
 - Three years - develop an emergency response program after agency written request to do so.
 - Four years - comply with other new provisions
 - Five years - to correct or resubmit RMPs to reflect new and revised data elements.

The proposal was published in the Federal Register on March 14, 2016, with comments due by May 13.



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Self-Evaluation Checklist

Does the organization own or operate any facility with any “stationary source” subject to ARP requirements?

- If so, has the organization considered the impacts on its operations and compliance position under each applicable revision proposed by EPA?

Where Can I Go For More Information?

- EPA's [ARP program](#) webpage
- [EPA's proposal](#) (pre-publication copy, pending formal publication in Federal Register)

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