

Near the end of 2016, the Obama EPA published an [updated RMP rule](#). It was officially entered into the CFR on January 13th, 2017. Since then, many things have happened:

- It was **delayed** until Mar. 17, 2017, at [82 FR 8499](#), on Jan. 26, 2017;
- It was further **delayed** until June 19, 2017, at [82 FR 13968](#), on Mar. 16, 2017;
- It was further **delayed** yet again until Feb. 19, 2019, at [82 FR 27133](#), on June 14, 2017;
- It was tentatively [replaced](#) on May 17, 2018;
- It was [un-delayed and re-instated](#) by the DC District Court on August 17, 2018;
- It was [re-delayed](#) by the SAME DC District Court on September 9, 2018;
- It was AGAIN [un-delayed and re-instated](#) by the SAME DC District Court on September 21, 2018

After all that, the RMP rule as amended at the tail of the Obama administration is now surprisingly in effect, even though it is currently being replaced. That means everyone in the country is out of compliance. This led the EPA to publish an un-signed, un-dated, [Compliance Bulletin](#) at the end of September, 2018.

As we read it, that compliance bulletin essentially tells us that the EPA is DONE fighting the delay in the courts. They are going to implement and (to some degree) enforce the Obama-era rule and continue with their new rule-making process which should reverse many of these changes.

In the interim, we are stuck with an updated, **enforceable**, RMP rule. This means that there are new/updated requirements that your program needs to be updated to address.

We have created two documents to assist you in making these changes:

1. First, is a “clean” CFR. That is, a version of the RMP Rule that shows it as we believe it is right now. Note, there are minor errors in the actual RMP rule as filed in the Federal Register, so we’ll update this as the filing is fixed. “Clean” CFR link ([here](#)).
2. We have also created a list of changes – arranged by PSM/RMP element – that need to be made to your RC&E PSM program to become compliant with the updated RMP rule. We’ve put that list in this post AND created a PDF with the same information ([here](#)).

Feel free to [Contact Us](#) via if you would like assistance from RC&E in updating your program.

Updated PSM / RMP Section	What we changed in the base program	What you need to change to comply with the new RMP
<p>01 – RMP</p> <p><i>§68.10 Applicability</i></p> <p><i>§68.12 General requirements</i></p> <p><i>§68.160 Registration.</i></p> <p><i>§68.170 Program 2 Prevention program</i></p> <p><i>§68.175 Program 3 Prevention program</i></p> <p><i>§68.180 Emergency response program</i></p> <p><i>§68.190 Updates</i></p> <p><i>§68.200 Recordkeeping.</i></p> <p><i>§68.210 Public Information</i></p>	<ul style="list-style-type: none"> • Updated EPA CFR text included in the Written Plan to reflect 2017 Law and added some other sections (including definitions) that hadn't previously been placed in the Written Plan. Clearly noted where sections are omitted in the CFR text section. • Updated "Summary and Implementation Overview" section to include a brief overview of the new EPA requirements. • Updated "References and Definitions" section to reflect the updated EPA rule. • Updated the "Implementation Procedure: RMP Filing" section to clarify the plan intent regarding 5yr accident history releases. • Addressed new EPA requirement concerning public information in new procedural section "Implementation Policy: Availability of information to the public" • Addressed new EPA requirement concerning public meetings addressed in new procedural section "Implementation Policy: Public Meetings" and referenced this section in the Incident Investigation Written Plan. • Addressed new EPA requirement concerning updating the reporting and incident investigation requirements before de-registration in the Incident Investigation Written Plan. See that section for further details. 	<ul style="list-style-type: none"> • Update the RMP Written Plan to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section. • Before March 15, 2021: <ul style="list-style-type: none"> ○ Establish the appropriate contact person(s) for public information. ○ Establish any needed policies on providing the required public information. ○ Provide a page on the company website providing notice of the new public information with appropriate contact information. • After March 15, 2021 – Ensure that: <ul style="list-style-type: none"> ○ Public Information is updated as needed. ○ Public Meetings are conducted as required by the Incident Investigation element. • By March 14, 2022 ensure that a new RMP is filed that reflect the updated rule.

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02 – Employee Participation	<p>While there are no changes to the RMP rule in this section, changes in other sections caused us to make some improvements in this section:</p> <ul style="list-style-type: none"> • Updated “Implementation Policy: Employee / Contractor Participation in the Process Safety Program” to include participation possibilities in new EPA requirements. • Updated “Implementation Policy: Employee Concerns regarding the Process” and “Implementation Policy: Written Communication between shifts. (COMLOG)” to clarify the intent of the section. 	<ul style="list-style-type: none"> • Update the Employee Participation Written Plan to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.
03 – Process Safety Information <i>§68.48 Program 2 Safety Information</i> <i>§68.65 Program 3 Process Safety Information</i>	<ul style="list-style-type: none"> • Updated EPA CFR text included in the Written Plan to reflect 2017 Law • Addressed new EPA requirement concerning continuous update / verification of the PSI (and RAGAGEP) in new policy section “Implementation Policy: Continuous PSI Verification and Updates due to Changes.” • Written Plan had already been updated to reflect that MSDS are now called SDS. 	<ul style="list-style-type: none"> • Update the Process Safety Information Written Plan to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.

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<p>04 – Process Hazard Analysis</p> <p><i>§68.50 Program 2 Hazard Review</i></p> <p><i>§68.67 Program 3 Process Hazard Analysis</i></p>	<ul style="list-style-type: none"> Updated EPA CFR text included in the Written Plan to reflect 2017 Law The new EPA requirement concerning Incident Investigation findings needing to be addressed in the PHA are now clearly addressed in the existing policy section “Implementation Policy: How to Conduct a Process Hazard Analysis,” section 4 & 6. Since previous OSHA interpretations have already included this concept, all PHA’s conducted by RC&E in the last 3 ½ years have included this already. Existing Written Plan and PHA language already dealt with “equipment malfunctions and human errors” adequately. 	<ul style="list-style-type: none"> Update the Process Hazard Analysis Written Plan to the newest version. Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.
<p>05 – Operating Procedures</p>	<ul style="list-style-type: none"> No changes in the 2017 EPA Rule 	<ul style="list-style-type: none"> No action needed
<p>06 – Training</p> <p><i>§68.54 Program 2 Training</i></p> <p><i>§68.71 Program 3 Training</i></p>	<ul style="list-style-type: none"> Updated EPA CFR text included in the Written Plan to reflect 2017 Law The new EPA requirement concerning Supervisors with operational duties requiring training is now clearly addressed in the existing policy section “Implementation Policy: Process Operator Classification.” 	<ul style="list-style-type: none"> Update the Training Written Plan to the newest version. Train the Operator Training AND Contractor Responsible Person(s) in the PSM/RMP system on the changes made to this section.
<p>07 – Contractors</p>	<ul style="list-style-type: none"> No changes in the 2017 EPA Rule 	<ul style="list-style-type: none"> No action needed as there are no new requirements directly in this section; however, it would be prudent to ensure that any contractor supervisors with operational duties are trained as required by the Training element.

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08 – Mechanical Integrity	<ul style="list-style-type: none"> No changes in the 2017 EPA Rule; however, the MI-EL1 maintenance schedule was updated to reflect the EAP/ERP exercise schedules. 	<ul style="list-style-type: none"> Update the Mechanical Integrity Written Plan to the newest version. Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section. Before March 15, 2021 update your MI tracking system to ensure that these EAP/ERP exercises are being conducted on an appropriate schedule.
09 – Hot Work	<ul style="list-style-type: none"> No changes in the 2017 EPA Rule, but we took the opportunity to update the Written Plan to include the entire 1910.252 CFR for facilities that don't have a separate Hot Work written plan. 	<ul style="list-style-type: none"> If you have the version of the PSM/RMP Hot Work Written Plan that references an existing Hot Work plan you don't need to do anything. If you have the version of the PSM/RMP Hot Work Written Plan that also serves as the facility Hot Work program, then: <ul style="list-style-type: none"> Update the Hot Work Written Plan to the newest version. Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.
10 – Management of Change & Pre-Startup Safety Review	<ul style="list-style-type: none"> No changes in the 2017 EPA Rule, but added a reminder in the MOC/PSSR Written Plan procedural section "Update and Re-submit Risk Management Plan" to check that Public Information required under §68.210 is still correct after a change. 	<ul style="list-style-type: none"> Update the MOC/PSSR Written Plan to the newest version. Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.

<p>11 – Incident Investigation</p> <p><i>§68.60 Program 2 Incident Investigation</i></p> <p><i>§68.81 Program 3 Incident Investigation</i></p>	<ul style="list-style-type: none"> • Updated EPA CFR text included in the Written Plan to reflect 2017 Law • Addressed new EPA requirement concerning decommissioned or destroyed facilities in existing procedural section “Implementation Policy: Conducting Incident Investigations,” section 1. • Addressed new EPA requirement concerning investigations taking longer than 1 year in existing procedural section “Implementation Policy: Conducting Incident Investigations,” section 5. • Addressed new EPA requirement concerning incident report to include location, explicit consequence requirements, emergency response actions, “all relevant facts in chronological order,” and incident duration, in existing procedural section “Implementation Policy: Conducting Incident Investigations,” section 7, “Implementation Policy: Documenting an Incident Investigation on Form IIR” sections 2 & 3 and form IIR. • Addressed new EPA requirement concerning public meetings in existing procedural section “Implementation Policy: RMP Update & Five-Year Accident History” including reference back to the RMP Written Plan. • New EPA requirement concerning investigations for a “near miss” and amount of chemical lost is already covered in existing procedural section “Implementation Policy: Conducting Incident Investigations,” section 1. 	<ul style="list-style-type: none"> • Update the Incident Investigation & Emergency Action / Response Written Plan to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section. • Train all your process operators and supervisors: <ul style="list-style-type: none"> ○ On the new Incident Investigation requirements ○ On the new Form IIR ○ To re-enforce the need for Incident Investigations for Process Upsets and Near Misses.
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	<ul style="list-style-type: none"> • New EPA requirement concerning finding and addressing Root Causes already covered in existing written plan; however, clarity was improved in the “Determine the Causes” section of the procedural section “Implementation Policy: Conducting Incident Investigations.” • New EPA requirement concerning tracking resolutions already covered in Incident Investigation and RMP existing written plan; however, clarity was improved in the RMP Written Plan “Track Recommendations” section of the procedural section “Implementation Policy: Conducting Incident Investigations.” • Updated “Implementation Policy: Documenting an Incident Investigation on Form IIR” to address the significance of determining a release is a 5yr EPA recordable. 	

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<p>12 – Emergency Action Plan / Emergency Response Plan</p> <p><i>§68.90 Applicability</i></p> <p><i>§68.93 Emergency response coordination activities.</i></p> <p><i>§68.95 Emergency response program</i></p> <p><i>§68.96 Emergency response exercises</i></p>	<ul style="list-style-type: none"> • Updated EPA CFR text included in the Written Plan to reflect 2017 Law • Revised “Implementation Policy: Emergency Action / Response Plan” to include all requirements of EPA 68.90 and to outline new requirements of sections 68.93, 95 &96. • New EPA requirements concerning Emergency Response Coordination activities and documentation addressed in new procedural section “Implementation Policy: Emergency Response Coordination Activities.” • New EPA requirements concerning Emergency Response Exercises addressed in new procedural section “Implementation Policy: Emergency Response Exercises” • New EPA requirements concerning after-action reports to the Incident Investigation element Written Plan. 	<ul style="list-style-type: none"> • Update the Emergency Action / Response Plan and Incident Investigation Written Plan to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section. • Before March 15, 2021: <ul style="list-style-type: none"> ○ Establish the appropriate contact person(s) for Response Coordination Activities. ○ Establish any needed policies on Response Coordination Activities. ○ Coordinate with the LEPC and Responding Agencies to schedule Tabletop and Field exercises. • After March 15, 2021 – Ensure that: <ul style="list-style-type: none"> ○ Scheduled Tabletop and Field exercises appropriately in consultation with LEPC and Responding Agencies. ○ LEPC and Responding Agencies are encouraged to attend scheduled Tabletop and Field exercises

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<p>13 – Compliance Audits</p> <p><i>§68.58 Program 2 Compliance Audits</i></p> <p><i>§68.59 Program 2 Third-Party Audits</i></p> <p><i>§68.79 Program 3 Compliance Audits</i></p> <p><i>§68.80 Program 3 Third-Party Audits</i></p>	<ul style="list-style-type: none"> • Updated EPA CFR text included in the Written Plan to reflect 2017 Law • Added new procedural section “Implementation Policy: Independent Third-Party Compliance Audit Applicability” to address when a 3rd-Party Compliance Audits is required under the updated rule. • Updated the “PSM RMP Compliance Audit Checklist” to include the new EPA requirements. • Updated procedural sections “Implementation Policy: Scheduling the Compliance Audit,” “Implementation Policy: Documenting the Compliance Audit,” and “Implementation Policy: Addressing the Findings and Recommendations” to reflect the new EPA requirements concerning a 3rd-party audit. • Updated the Document Management section to include retention of any certifications. 	<ul style="list-style-type: none"> • Update the Compliance Audit Written Plan to the newest version. • Update the internal audit template to the newest version. • Train the Responsible Person(s) in the PSM/RMP system on the changes made to this section.
14 – Trade Secrets	<ul style="list-style-type: none"> • No changes in the 2017 EPA Rule 	<ul style="list-style-type: none"> • No action needed
Reference	<ul style="list-style-type: none"> • New Clean CFR for 2017 RMP rule as amended. Please note that the 2017 EPA RMP rule appears to have many small errors in it. When the EPA publishes a final rule that addresses these errors, we’ll modify this document to reflect it. 	<ul style="list-style-type: none"> • Update your digital directory. • Place in reference binder if you prefer it printed.

Previous Coverage:

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