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Risk Management Program - Proposed Rule Revisions

Midwest Environmental Compliance Conference
Overland Park, Kansas ♦ May 17, 2017

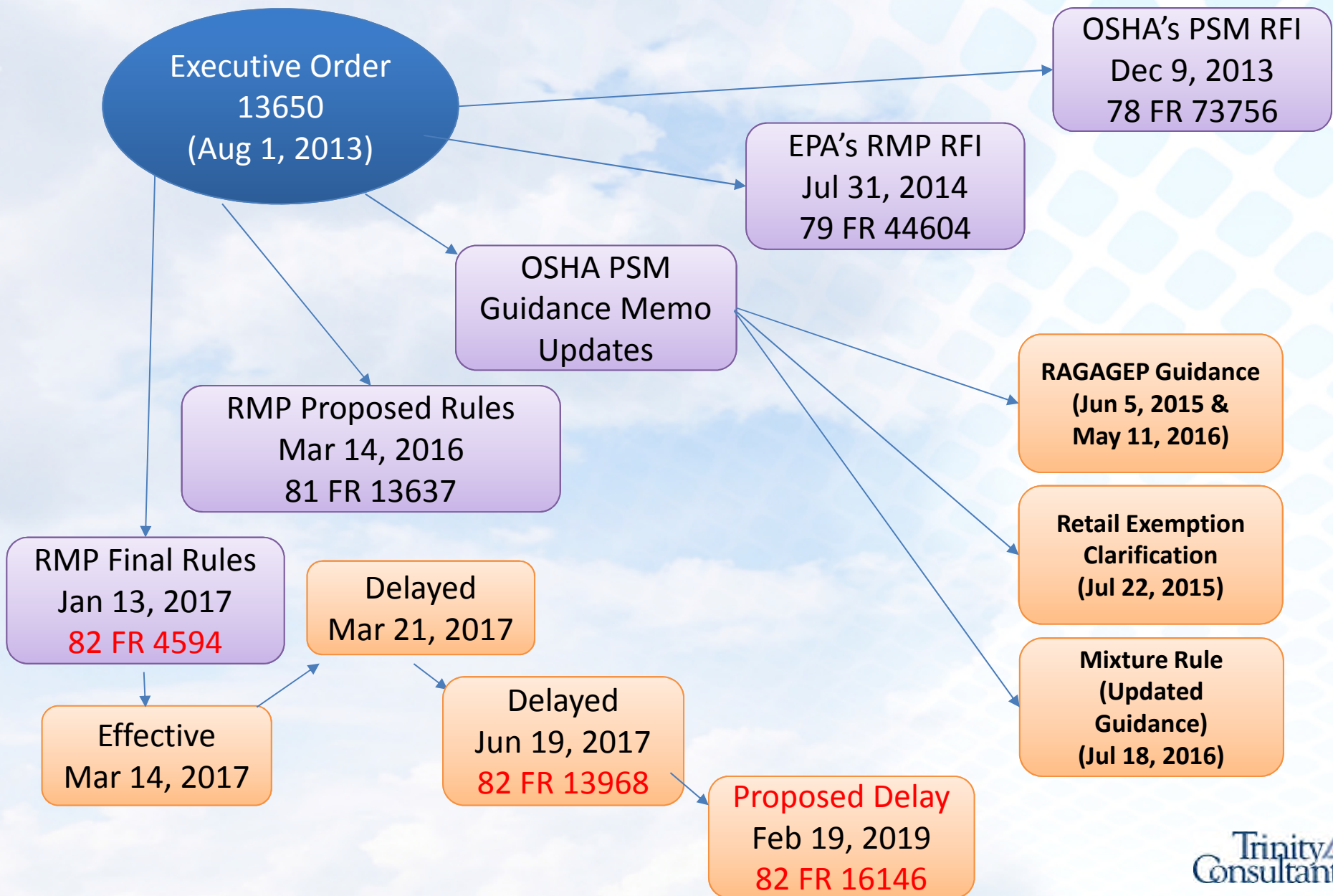
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Rule Revisions - History



Compliance Dates - Final Rule

All items listed below have a 6/19/17 compliance date

Rule Section	Significant Changes	Citations
Definitions	Root cause, ISTD & STAA categories, practicability, third-party audit	68.3
Applicability	All compliance deadlines; ER program elements; Table corrections; DOD/CBI	68.10; 68.90; 68.95, 68.130; 68.210(f) & (g) - public info
General Requirements	Adds ER coordination, program, and exercises to Level 2 & 3 responsibilities	68.12; Detailed requirements have later compliance dates
Safety Info / PSI	SDS instead of MSDS	68.48 / 68.65
Hazard Review / PHA	Review incident investigation findings	68.50 (a)(2) / 68.67 (c)(2)
Training (Initial and Refresher – SOPs)	Include supervisors with covered process operational responsibilities	68.54 / 68.71
Incident Investigation	Include near miss & destroyed process; schedule to address recommendations	68.60(a),(c),(d)(1)-(6),(8) &(g) 68.81(a),(d)(1)-(6),(8)
Compliance Audits	Audit EACH covered process every 3yrs	68.58 (a) / 68.79 (a)

Compliance Dates - Final Rule

Unless listed below, compliance date is June 19, 2017*

Rule Provision	Compliance Date	Affected Provision Citations
ER coordination Activities	March 14, 2018	68.93
Third-party audit	March 15, 2021	68.58 (f)-(h), 68.59, 68.79(f)-(h) & 68.80
Root cause analysis	March 15, 2021	68.60(d)(7) & 68.81(d)(7)
Information sharing - public	March 15, 2021	68.210(b)-(e)
STAA - Level 3, NAICS 322, 324, 325	March 15, 2021	68.67(c)(8)
ER notification, field & tabletop exercises	March 15, 2021	68.96
New RMPlan data requirements	March 14, 2022;	68.160-68.190

* Initial effective date is delayed to June 19, 2017 for rule reconsideration

Other compliance dates are hard-coded in FR but EPA guidance suggests they will slide based on the delayed effective date (i.e. to June 19 or June 20 for their respective years)

Implement **responding facility** program (68.95) within 3 years of determination that facility meets responding facility definition

RMP Reportable Triggers

Rule Provision	Details of Compliance Deadline	Completion Date
Public Meeting	Within 90 days after accident	October 3, 2021
Incident Investigations	Initiate within 48 hours, complete report & root cause analysis within 12 months	Complete report by July 5, 2022
Third-party audit	Within 12 months of accident	Complete audit by July 5, 2022; Complete findings response report within 90 days of audit completion
Field exercise	May use the response as a field exercise if all exercise and report requirements are met	Evaluation report within 90 days of incident (October 3, 2021)
Update RMPlan	Correct RMPlan within 6 months (existing requirement-root cause was not added)	January 5, 2022

Effective date June 19, 2017; Compliance Date March 15, 2021 **for these items**
 RMP Reportable date of July 5, 2021; Last audit April 6, 2020
 Last RMPlan update June 30, 2020; Incident Date July 5, 2021

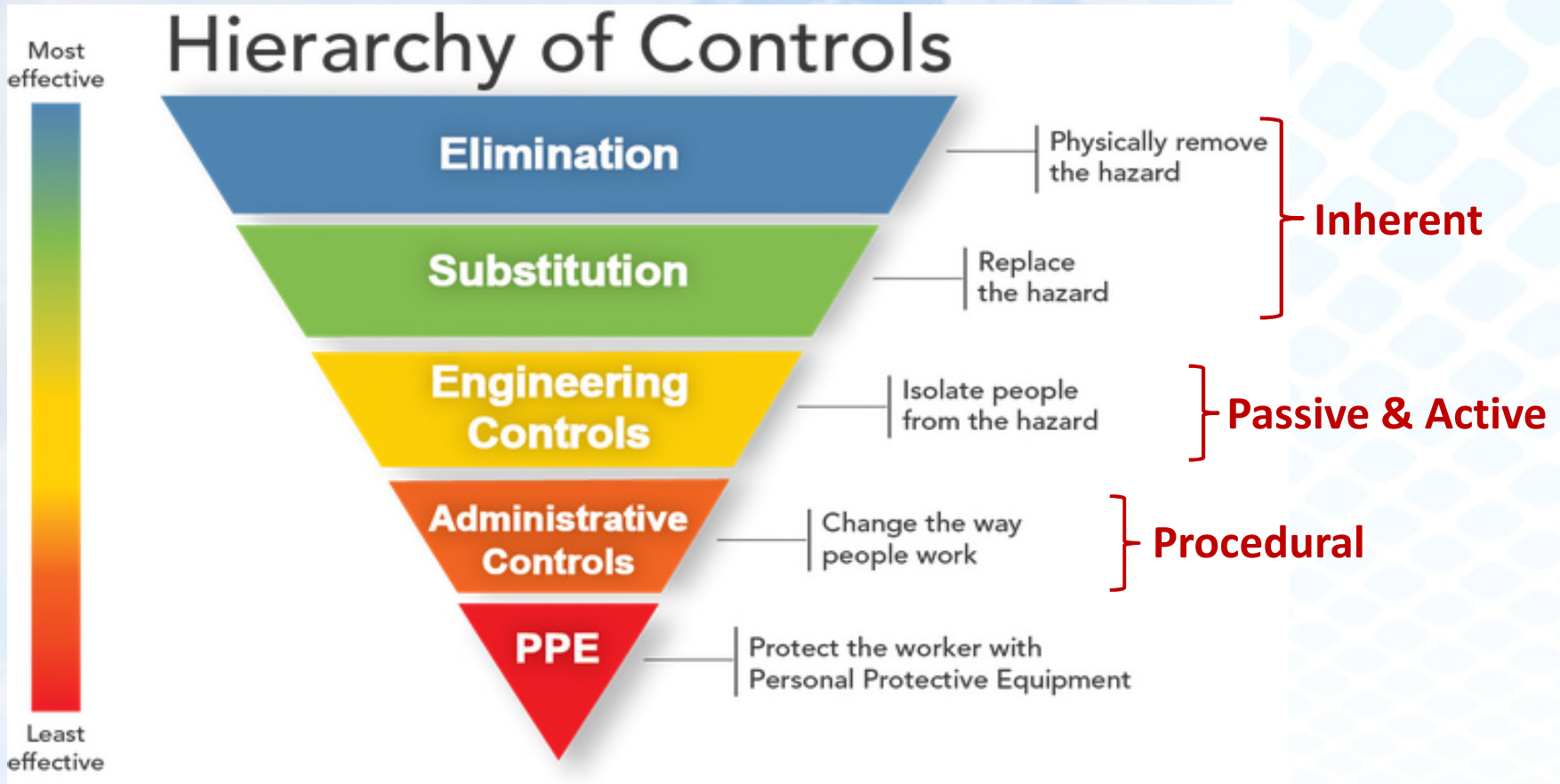
Safer Technology and Alternatives Analysis

Process Hazard Analysis - STAA

Program Level 3- NAICS codes 322,324,& 325

- ❖ As part of the PHA, conduct Safer Technology and Alternatives Analysis (STAA)
- ❖ Consider in the following order of preference
 - ◆ Inherently safer technology or design (ISTD)
 - ◆ Passive measures
 - ◆ Active measures
 - ◆ Procedural measures
- ❖ Owner or operator must determine the *practicability* of ISTD identified in STAA

Strategies for Safer Technology & Alternative Analysis



Source: NIOSH website: <http://www.cdc.gov/niosh/topics/hierarchy/>

STAA Requirements Timing

Applies to NAICS Codes 322, 324, and 325, Program Level 3 ONLY

Applicable Provisions	Additional Information	When to Complete
STAA	Every 5 years as part of PHA Revalidation	By March 15, 2021
Update RMPlan	Still do regular 5-year updates until compliance date	By March 14, 2022

Example based on a facility with their previous RMPlan update March 31, 2018 and previous PHA Revalidation on March 7, 2017

NOTE: Compliance dates are hard-coded in FR but EPA guidance suggests they will slide based on the delayed effective date (i.e. from March 14 or 15 to June 19 or 20 for their respective years)

Final rule deleted the requirement to share STAA information with LEPC, upon request

Third Party Audits

Third-Party Audits



Third-Party Audit Requirements

- > Adds requirement for **third-party audit** if
 - ❖ Accidental release meeting 68.42(a) criteria (5-year Accident / RMP Reportable Incident)
 - ❖ Implementing agency requires it based on
 - ◆ Conditions that “could lead to an accidental release”
 - ◆ Determination that third-party audit failed to meet **competency or independence criteria (68.59 / 68.80)**
 - ◆ *Impartiality criteria removed from final rule*
- > **Audit & report** completed by
 - ❖ 12 months from 5-year accident
 - ❖ 12 months from final agency determination
 - ❖ *Removed timing based on site’s last compliance audit*

Third-Party Auditor / Audit Team

Owner / operator must EITHER

- > Engage a third-party auditor meeting all competency & independence criteria
- > Assemble an auditing team led by a third-party auditor meeting all competency & independence criteria
 - ❖ Can also include employees of the third-party auditor firm meeting independence criteria
 - ❖ Other personnel not employed by third-party auditor firm, including facility personnel
- > Owner / operator must determine & document how these criteria are met
- > *New section in the final rules 68.59(b) / 68.80(b)*

Emergency Response

Emergency Response Coordination

- > **New section 68.93 - All Level 2 & 3 programs**
- > Coordinate with local responders at least annually, to
 - ❖ *Ensure local responders are aware of your regulated substances, their quantities & risks, and your response resources & capabilities*
 - ❖ Address changes at the source & in source emergency plan
 - ❖ Address changes in local community response plan
 - ❖ *Provide copy of source emergency plan and emergency contact info*
- > Document coordination activities
- > Applies to non-responding and responding facilities at Level 2 & 3 sites
 - ❖ Level 1 sites already require coordination (68.10(b)(3))
- > **Responding sites must coordinate Emergency Exercises schedule**
- > *Removed references to “local response capabilities”*
- > *New details in 68.93 Coordination activities replace proposed requirement to provide Chemical Hazards information to LEPC*

Emergency Response Exercises

- > **New section 68.96**
- > (a) Notification exercises - all Level 2 & 3
 - ❖ Annually test emergency response notification mechanisms - contact information is accurate
 - ❖ Responding sites can combine with other exercises
 - ❖ Maintain records of exercises for last 5 years
- > (b) Tabletop and field exercises - responding sites
 - ❖ Coordinate with & invite local public responders
 - ❖ Field- simulated release at least every **10** years
 - ❖ Tabletop - **at least every 3 years**
 - ❖ Evaluation report within 90 days of exercise
 - ◆ Recommendations and schedule to resolve them
 - ❖ ***Actual response & its report can be used to meet exercise requirement***

Tabletop Exercise Scope

Discussion of:

- > Notification procedures for public, government & responding agencies
 - ❖ *Federal, state and local ER agencies*
- > Emergency response actions - evacuation, medical treatment
- > Identification of facility, and contractor if applicable, emergency response personnel & their responsibilities
- > Coordination with local responders
- > Emergency equipment deployment procedures
- > Any other actions identified in ERP

Field Exercise Scope

Tests of:

- > Notification procedures for public, government & responding agencies
 - ❖ *Federal, state and local ER agencies*
- > Emergency response actions - evacuation, medical treatment
- > **Communication systems**
- > **Mobilization** of facility, and contractor if applicable, emergency response personnel & their responsibilities
- > Coordination with local responders
- > Emergency equipment deployment procedures
- > Any other actions identified in ERP

Questions & Discussion

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Need Additional Training?

Understanding and Application of RMP/PSM Requirements

July 19-20, 2017 – Oklahoma City, OK

Oct 18-19, 2017 – Boston, MA