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U.S. Environmental Protection Agency Risk Management Plan (Rule Updates): Trena Adair (Harbor Environmental) Arkansas Environmental Federation Webinar Presentation

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Trena Adair of Harbor Environmental undertook a webinar presentation for the Arkansas Environmental Federation titled:

EPA Risk Management Plan - Rule Updates (as of July 2021) ("Presentation")

Trena serves as a principal of Harbor Environmental.

The *Presentation* focused on the Clean Air Act Risk Management Plan ("RMP") regulation.

Trena notes that the RMP was developed as part of the 1990 Clean Air Act Amendments. The RMP is driven by Section 112(r) of the Clean Air Act. It is applicable to facilities that:

... use extremely hazardous substances ("EHS").

Such facilities must develop and implement a RMP plan if they exceed the threshold quantity ("TQ") of EHS. Her slide *Presentation* included what is denominated the "Consolidated List of Lists."

The *Presentation* noted as a caveat that even if a facility has an EHS that does not exceed the TQ, it still must follow what is known as the Clean Air Act "General Duty Clause."

Trena notes that the RMP "tells a story to public and emergency responders," which includes:

1. Hazardous Chemicals at your site
2. Worst-case scenario
3. Alternative release scenario
4. Potential off-site impacts
5. 5-year accident history
6. Prevention Program
7. Emergency Response Program

The *Presentation* also distinguished the EPA RMP and the OSHA PSM (29 C.F.R 1910.119).

The *Presentation* also reminded attendees that a facility could be subject to the PSM and RMP and vice versa, providing an illustration.

An extensive discussion of the West, Texas ammonium nitrate explosion in 2013 was addressed which included a RMP timeline.

The *Presentation* then addressed the RMP amendments that EPA promulgated in 2017 which are stated to affect:

- Accident Prevention Program
- Emergency Response Enhancements
- Enhanced Availability of Information

The Accident Prevention Program is stated to have included three changes:

- Must conduct Root Cause Analysis as part of incident investigation.
- Must have Independent Third-Party Audit to perform a compliance audit AFTER the facility has an RMP reportable accident.
- PHAs –new requirement to conduct a safer technology and alternatives analysis (STAA) as part of PHA (NOTE: Only NAICS codes 322 (Paper Manufacturing), 324 (Petroleum & Coal Products/Manufacturing) and 325 (Chemical Manufacturing))

The Emergency Response Enhancements included:

- Annual coordination with the local emergency response agencies
- Conduct Notification exercises Annually to ensure that their emergency contact information is accurate and complete.
- For those sites that “Respond”
- Conduct Field Exercises with LEPC/Fire Dept–minimum of once every 10 years
- Tabletop Exercises with LEPC/Fire Dept–minimum of once every 3 years

The Enhanced Availability of Information included:

- Facilities must provide certain basic information to the public, upon request within 45 days
- Must provide ongoing notification of availability of information elements on a company
- Must hold a public meeting for the local community within 90 days of a REPORTABLE ACCIDENT.

EPA is stated to have reconsidered amendments based on three petitions that filed objections and the agency’s own review. Those were noted to include:

- Potential security risks associated with new information disclosure requirements
- Bureau of Alcohol, Tobacco, Firearms and Explosive’s finding that a key incident affecting US chemical safety policy, a fire and explosion in West, Texas, was caused by a criminal act
- Costs
- Inadequate coordination with OSHA

The changes to the amendments were in response to the previous four concerns. Those changes were detailed, such as:

- Third-party audit requirement rescinded
- Requirement to assess theoretically safer technology and alternative risk management measures rescinded
- Requirement to conduct and document a root cause analysis after an RMP reportable accident or a near miss rescinded
- Broadly defined information rescinded

Certain retained requirements were modified, such as:

- Tabletop

- Annual notification drills
- Field exercises
- Scope and documentation provisions for both field and tabletop exercises
- Public meetings

Statistics were cited that noted from 2007 to 2016 at least 90 percent of RMP facilities had no reported accidents and nearly half of the accidents occurred at less than two percent of facilities reporting multiple releases. This is deemed to support EPA's risk-approach that emphasizes compliance and focuses attention on the outliers through its National Compliance Initiative for Reducing Risks of Accidental Releases at Industrial and Chemical Facilities.

Finally noted was the fact that EPA held two listening sessions on June 16 and July 18, 2021, in potentially considering improvements to the RMP rule.

A copy of the slides from the webinar *Presentation* can be downloaded [here](#).